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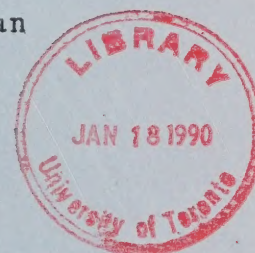
VOLUME: 172

DATE: Thursday, January 11th, 1990

BEFORE: M.I. JEFFERY, Q.C., Chairman

E. MARTEL, Member

A. KOVEN, Member



FOR HEARING UPDATES CALL (TOLL-FREE): 1-800-387-8810

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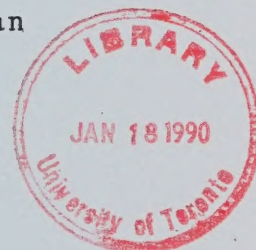
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EA-87-02

HEARING ON THE PROPOSAL BY THE MINISTRY OF NATURAL  
RESOURCES FOR A CLASS ENVIRONMENTAL ASSESSMENT FOR  
TIMBER MANAGEMENT ON CROWN LANDS IN ONTARIO

IN THE MATTER of the Environmental  
Assessment Act, R.S.O. 1980, c.140;

- and -

IN THE MATTER of the Class Environmental  
Assessment for Timber Management on Crown  
Lands in Ontario;

- and -

IN THE MATTER OF a Notice by the  
Honourable Jim Bradley, Minister of the  
Environment, requiring the Environmental  
Assessment Board to hold a hearing with  
respect to a Class Environmental  
Assessment (No. NR-AA-30) of an  
undertaking by the Ministry of Natural  
Resources for the activity of timber  
management on Crown Lands in Ontario.

-----  
Hearing held at the Ramada Prince Arthur  
Hotel, 17 North Cumberland St., Thunder  
Bay, Ontario, on Thursday, January 11th,  
1990, commencing at 9:00 a.m.

-----  
VOLUME 172

BEFORE:

MR. MICHAEL I. JEFFERY, Q.C.	Chairman
MR. ELIE MARTEL	Member
MRS. ANNE KOVEN	Member





A P P E A R A N C E S

MR. V. FREIDIN, Q.C.)	
MS. C. BLASTORAH )	MINISTRY OF NATURAL
MS. K. MURPHY )	RESOURCES
MS. Y. HERSCHER )	
MR. B. CAMPBELL )	
MS. J. SEABORN )	MINISTRY OF ENVIRONMENT
MS. B. HARVIE )	
MR. R. TUER, Q.C.)	ONTARIO FOREST INDUSTRY
MR. R. COSMAN )	ASSOCIATION and ONTARIO
MS. E. CRONK )	LUMBER MANUFACTURERS'
MR. P.R. CASSIDY )	ASSOCIATION
MR. H. TURKSTRA	ENVIRONMENTAL ASSESSMENT
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MR. D. HUNTER )	NISHNAWBE-ASKI NATION
MS. N. KLEER )	and WINDIGO TRIBAL COUNCIL
MR. J.F. CASTRILLI)	
MS. M. SWENARCHUK )	FORESTS FOR TOMORROW
MR. R. LINDGREN )	
MR. P. SANFORD )	KIMBERLY-CLARK OF CANADA
MS. L. NICHOLLS)	LIMITED and SPRUCE FALLS
MR. D. WOOD )	POWER & PAPER COMPANY
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MR. R. COTTON	BOISE CASCADE OF CANADA
	LTD.
MR. Y. GERVAIS)	ONTARIO TRAPPERS
MR. R. BARNES )	ASSOCIATION
MR. R. EDWARDS )	NORTHERN ONTARIO TOURIST
MR. B. McKERCHER)	OUTFITTERS ASSOCIATION





APPEARANCES: (Cont'd)

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MR. J.W. ERICKSON, Q.C.)	RED LAKE-EAR FALLS JOINT
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MR. G.J. KINLIN	DEPARTMENT OF JUSTICE
MR. S.J. STEPINAC	MINISTRY OF NORTHERN
	DEVELOPMENT & MINES
MR. M. COATES	ONTARIO FORESTRY
	ASSOCIATION
MR. P. ODORIZZI	BEARDMORE-LAKE NIPIGON
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APPEARANCES: (Cont'd)

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MR. M.O. EDWARDS	FORT FRANCES CHAMBER OF COMMERCE
MR. P.D. McCUTCHEON	GEORGE NIXON
MR. C. BRUNETTA	NORTHWESTERN ONTARIO TOURISM ASSOCIATION





I N D E X   O F   P R O C E E D I N G S

<u>Witness:</u>	<u>Page No.</u>
<u>JOHN ALLIN,</u>	
<u>KENNETH ARMSON,</u>	
<u>DAVID EULER,</u>	
<u>ALBERT BISSCHOP,</u>	
<u>CAMERON CLARK,</u>	
<u>JOHN DUNCANSON, Resumed</u>	30488
Continued Direct Examination by Ms. Blastorah	30488
Direct Examination by Mr. Freidin	30586
Cross-Examination by Mr. Edwards	30633



(v)

I N D E X   O F   E X H I B I T S

<u>Exhibit No.</u>	<u>Description</u>	<u>Page No.</u>
991	Newspaper article entitled: Mills Converting to Recycled Paper, dated Thursday, December 21, 1989.	30644





1       ---Upon commencing at 9:08 a.m.

2                   THE CHAIRMAN: Good morning, ladies and  
3 gentlemen.

4                   I apologize for the delay. I knew it  
5 would happen once in the last two years, I had to wait  
6 for the snow plow before I could get up the hill, so  
7 that is the reason.

8                   We hope that won't affect the amount of  
9 material we have to cover today.

10                  Ms. Blastorah, we would like to know  
11 whether or not the Ministry has had an opportunity to  
12 consider the undertaking issue?

13                  MS. BLASTORAH: Perhaps Mr. Freidin could  
14 respond to that.

15                  MR. FREIDIN: Mr. Chairman, I would like  
16 to address that first thing Tuesday morning.

17                  THE CHAIRMAN: Okay. We have decided  
18 that we are not going to render our ruling on the  
19 exemption with respect to the matters we discussed  
20 yesterday until we have that other issue resolved.

21                  Now, as far as the cross-examinations go,  
22 the Board is of the view that the parties are entitled  
23 to cross-examine on matters relating to licensing,  
24 apart from the exemption issue.

25                  Whether or not the Board can do anything

1 with respect to licences, will depend on the Board's  
2 ruling with respect to whether or not we feel Section 9  
3 afforded an appropriate exemption, but with respect to  
4 parties cross-examining on matters relating to  
5 licensing, we feel that, provided that  
6 cross-examination is relevant in terms of the  
7 activities that are being carried out pursuant to this  
8 undertaking, that that matter goes to determining what  
9 may or may not be impacts related to the undertaking,  
10 and we feel that parties are entitled to cross-examine  
11 in that area.

12 Now, we will be providing some full  
13 reasoning and written reasons with respect to  
14 determining the issue concerning the exemption as soon  
15 as we can; we want to review the material from  
16 yesterday, but we also want to have the Ministry's  
17 position, including any further comments by the  
18 Ministry of the Environment and other parties, on the  
19 definition or determination of the undertaking pursuant  
20 to Section 1(o) of the Act.

21 MS. BLASTORAH: Mr. Chairman, following  
22 up on that, I would just like to help our witnesses, if  
23 possible, in scheduling their arrivals and departures  
24 next week. We have quite a few procedural matters to  
25 deal with, as you are aware.



1 THE CHAIRMAN: Yes.

2 MS. BLASTORAH: And I'm advised by Mr.  
3 Freidin that he anticipates he will be about an hour  
4 Tuesday morning, and I am wondering if we could get  
5 some projections from the other parties who are here so  
6 that we can determine what time Tuesday we are likely  
7 to get started with cross-examination.

8 THE CHAIRMAN: Well, I suppose it  
9 depends, to a certain extent, what Mr. Freidin's  
10 determination is.

11 MS. BLASTORAH: I appreciate that.

12 THE CHAIRMAN: As the Board understands  
13 it, it is up to the proponent to define the  
14 undertaking. We believe that is the import of the  
15 Court of Appeal decision in the southwest Ontario Hydro  
16 case essentially.

17 Notwithstanding that, the Board has put  
18 forward its views as to what it believes is before us,  
19 including the planning process; the Ministry of the  
20 Environment has indicated, I believe - if we  
21 interpreted Ms. Seaborn's comments correctly - that was  
22 their view as well, it seems to be what was stated in  
23 the Government Review.

24 And we feel that most of the parties from  
25 day one in this hearing have been concentrating not

1       only on the activities but on the planning process  
2       itself, including the Ministry of Natural Resources, in  
3       terms of the evidence, and we feel there is very little  
4       justification for not defining the undertaking in terms  
5       of a plan, program or proposal in relation to  
6       activities, and defining the activities. That is our  
7       view.

8                       Notwithstanding that, I'm not sure we  
9       have the jurisdiction to say to the proponent: Define  
10      it in that fashion.

11                     MS. BLASTORAH: Okay, Mr. Chairman. I  
12      appreciate your comments, but I was wondering if other  
13      people could perhaps indicate how long they expect to  
14      be, if they have any idea. It may be premature to ask.

15                     MR. LINDGREN: Mr. Chairman, the extent  
16      of my submissions will actually be dependent on what  
17      Mr. Freidin has to say, but I would estimate at this  
18      time that I will be approximately 30 to 40 minutes.

19                     THE CHAIRMAN: All right.

20                     Ms. Seaborn?

21                     MS. SEABORN: We will certainly have some  
22      more submissions to make on the subject. As I said  
23      yesterday, I wanted to direct the Board to the excerpts  
24      that were in the evidence in front of the Board;  
25      however, we do have to listen to Mr. Freidin's comments

1 on this matter and we will certainly have some  
2 submissions. Perhaps half an hour to an hour.

3 THE CHAIRMAN: Okay. So that's at least  
4 another hour.

5 Mr. Cassidy?

6 MR. CASSIDY: 15 minutes.

7 MR. FREIDIN: Mr. Chairman, I think about  
8 an hour may be on the low side, so better go an hour  
9 and a half.

10 THE CHAIRMAN: I think we are good for  
11 the morning.

12 MS. BLASTORAH: It sounds like possibly  
13 that's the case, and I appreciate at least having that  
14 information, it may allow some people to come up on the  
15 morning flight.

16 The other consideration which is  
17 Thursday, which is the purpose motion, as you will  
18 recall.

19 THE CHAIRMAN: Yes.

20 MS. BLASTORAH: Shear speculation, but I  
21 would not be surprised, obviously, if that were to go  
22 the whole day, and I'm wondering if...

23 THE CHAIRMAN: I would suggest it  
24 probably will. And we are going to review, and we  
25 would ask all the other parties to review those parts



1 of the evidence dealing with the Board's discussion on  
2 the question whether this undertaking covers timber  
3 management or the entire forest estate that took place  
4 at the very outset of this hearing, or somewhere months  
5 and months ago.

6 Because if we are going to get into a  
7 similar argument - and we don't know for sure, when we  
8 are talking about purpose vis-a-vis undertaking - then  
9 we are going to have to have that information fresh in  
10 our minds as well, because we do not intend, at this  
11 stage of the game, quite frankly, to get back into the  
12 forest estate argument in any major way. That  
13 argument, as far as we are concerned, was put to bed  
14 some time earlier.

15 MS. BLASTORAH: Can I take it then, Mr.  
16 Chairman, we can count on not requiring the witnesses  
17 to be here Thursday, which would allow some people to  
18 fly out Wednesday night?

19 THE CHAIRMAN: Yes, I think that is  
20 reasonable under the circumstances.

21 MS. BLASTORAH: Thank you. I think that  
22 would certainly assist our witnesses and some of our  
23 support people.

24 THE CHAIRMAN: Okay.

25 MS. BLASTORAH: One other small

1 procedural matter, Mr. Chairman.

2 Yesterday we marked Exhibit 985A which  
3 was an additional errata letter dated June 30th, 1989  
4 from Ms. Murphy. I have copies of that for the Board  
5 and I distributed copies to the parties already.

6 (handed)

7 And just to remind you, that was Exhibit  
8 985A.

9 JOHN ALLIN,  
10 KENNETH ARMSON,  
11 DAVID EULER,  
12 ALBERT BISSCHOP,  
13 CAMERON CLARK,  
14 JOHN DUNCANSON, Resumed  
15 CONTINUED DIRECT EXAMINATION BY MS. BLASTORAH:

16 Q. Mr. Clark, we left off yesterday  
17 having had Mr. Bisschop review the alternatives which  
18 were put forward by the Ministry, and I would like to  
19 move now to the subject of how those alternatives were  
20 then ranked.

21 How did the Ministry go about analysing  
22 the effects of the various alternatives and ranking  
23 them in relation to the undertaking?

24 MR. CLARK: A. Well, I think the best  
25 way to describe it is that we employed an approach that  
26 was consistent with the previous method by which we  
27 prepared evidence for the hearing, and that was by use  
28 of an interdisciplinary team, most of the members of

1       which are on the panel today, and we tried to produce  
2       an environment and a process that allowed them to pool  
3       their information on the various components of the  
4       environment.

5                   I should point out that all those people  
6       consulted were previously witnesses. And one other  
7       point I would add is that while we relied on this  
8       interdisciplinary team, one of the clear understandings  
9       was that those people who were involved in the analysis  
10      and ranking of alternatives would consult widely with  
11      people inside and outside government when it was  
12      required.

13                   Q. And do you believe that approach of  
14      putting together an interdisciplinary team, if you  
15      will, of experts is a valid approach to analysing and  
16      ranking the alternatives?

17                   A. Yes, I do.

18                   Q. And why is that?

19                   A. Well, I think there's a number of  
20      reasons and I think it's probably been evident in the  
21      evidence we have presented to date.

22                   First of all, we tried to choose people -  
23      and I stress the distinctions - who had practical,  
24      technical and scientific background, so that we had a  
25      fair breadth of information in dealing with the various



1 components of the environment.

2 We tried to pick people or at least some  
3 of the members of the team had to have had personal  
4 knowledge and experience in the area of the  
5 undertaking. We felt that this was extremely important  
6 in terms of coming up with a realistic understanding or  
7 forecast of what might occur in the various  
8 alternatives.

9 We wanted to have people who had access  
10 to individuals in and outside government who could  
11 assist in the evaluation and ranking process by way of  
12 providing background information and expertise. And I  
13 guess one of the really important things from our point  
14 of view was to use people who had been involved  
15 previously in the preparation of evidence, particularly  
16 as it related to effects, the effects of timber  
17 management, because we felt that that would provide for  
18 continuity and we thought provided a pretty important  
19 basis for the kind of considerations that they would be  
20 making in evaluating these alternatives.

21 Q. And can you describe how you arrived  
22 at the overall ranking of the various alternatives to  
23 the undertaking in relation to timber management?

24 A. Yes. If you may, I have an overhead  
25 that I think would be helpful in describing that.

1 MS. BLASTORAH: And these overheads, Mr.  
2 Chairman, are contained in Exhibit 990.

3 MR. CLARK: I'm going to go through this  
4 overhead sequentially. I have got it on the screen  
5 here because I think one of the major messages I want  
6 to impart is that there was sort of a logical sequence  
7 to the order in which we actually did this analysis,  
8 and we employed what I have described as a four-step  
9 process.

10 And the first step was simply to - well,  
11 not simply - but was to describe the consequences of  
12 the various alternatives to the natural environment  
13 and, for those purposes, we divided the natural  
14 environment up into three subcomponents dealing with  
15 soil and site productivity, the aquatic environment,  
16 and wildlife. And in terms of the various individuals  
17 involved in that, we had Mr. Armson dealing with soil  
18 and site productivity, Dr. Allin dealing with the  
19 aquatic environment, and Dr. Euler dealing with  
20 wildlife.

21 And just giving you an example of the way  
22 this team was organized to deal with this issue, and as  
23 I pointed out earlier, while these people were the  
24 primary actors, if you want, in the exercise of  
25 analysing and ranking, they had access to many people

1 in and outside the Ministry to assist them. So that  
2 if, for example, there were issues related to fire and  
3 the thought that there was a need for additional  
4 information, then the assumption was, and I think it  
5 happened that - well, it did happen - that we consulted  
6 with people who had that kind of background.

7 Now, once that description was done, then  
8 those individuals came up with individual subcomponent  
9 rankings. So that Dr. Euler, for example, came up with  
10 a ranking for wildlife where there was a relative  
11 ranking of the various alternatives and the  
12 identification of a preferred alternative from the  
13 point of view of wildlife.

14 Similarly for the aquatic environment,  
15 similarly for soil and site productivity, and so the  
16 yellow box basically indicates that for each one of  
17 those subcomponents the "expert" produced a relative  
18 ranking and identified a preferred alternative.

19 Now, I'm not going to deal with that  
20 specific individual ranking right away. I would like  
21 to just run down the other steps if I could.

22 The second step was to define the  
23 consequences or describe the consequences for the  
24 economic environment, and there were two subcomponents  
25 that were dealt with there; the forest products

1 industry and other stakeholders. And, as in the  
2 previous case, there were individuals assigned  
3 specifically to deal with those particular  
4 subcomponents. And, once again, for each of those  
5 subcomponents an individual relative ranking was  
6 developed dealing with the various alternatives and  
7 identifying a preferred alternative.

8 The third step then was to deal with the  
9 consequences for the social environment, and the  
10 subcomponents there - and I think this is pretty well  
11 consistent with our evidence - with communities'  
12 stability, lifestyle and other stakeholders.

13 Now, I indicated there was a sequence  
14 here and the sequence that I just want to point out now  
15 is that we started out with consequences for the  
16 natural environment first, because I think as I pointed  
17 out in my evidence on a number of occasions, those are  
18 often the effects that produce socio-economic effects.  
19 So that we went through the analysis of the natural  
20 environment consequences first, and then these  
21 produced, to some extent, the basis for our  
22 deliberations on the economic and social consequences.

23 The last step then was to develop an  
24 overall ranking. Now, I think we really put this  
25 together just to show you conceptually how we did this.



1       It's not very detailed, I appreciate, but you can see  
2       the sequence we followed and the way in which we, in  
3       effect, divided up the work of doing this.

4                       Now, what I would like to do is just talk  
5       briefly about how the individual subcomponents were  
6       ranked by the individuals in question.

7                       First of all, as we said, we had an  
8       interdisciplinary team and individual experts were  
9       asked to rank the alternatives in relationship to one  
10      another; and, as I pointed out earlier, in doing so to  
11      the extent that it was necessary, they were asked to  
12      consult widely in order to confirm their own opinions  
13      on what the effects would be and what the ranking  
14      should be.

15                      One point I should stress is that in this  
16      process we indicated that it was up to the expert to  
17      identify how this assessment would be done. So that,  
18      for example, in dealing with wildlife, Dr. Euler in  
19      consultation with a number of his colleagues, developed  
20      an approach, and you will notice that that is described  
21      in an appendix in the text of the witness statement.

22                      Likewise, for the aquatic environment,  
23      for example, Dr. Allin developed an approach which is  
24      also described in the document.

25                      So we said: You are the people who have

1 to do this evaluation, you develop the approach that  
2 you feel is appropriate and the level of detail that  
3 you feel is appropriate to provide you with a  
4 satisfactory result in terms of analysing the  
5 consequences and in terms of coming up with a relative  
6 ranking, and I think more particularly choosing a  
7 preferred alternative.

8 And I should point out that I am not  
9 going to get into a lot of detail about how the  
10 individual rankings were done because some of the  
11 witnesses, I think most notably Dr. Euler and Dr.  
12 Allin, will be talking about the manner in which they  
13 did the analysis and the ranking.

14 One point I should make is that the  
15 individual alternatives were assessed as either  
16 positive or negative in terms of certain objectives.  
17 And I can give you a few examples of that. I will  
18 choose one, of course, that I am familiar with.

19 For example, when we were dealing with  
20 the need to rank the socio-economic alternatives in  
21 terms of the socio-economic environment -- or the  
22 social environment, excuse me, the kinds of objectives  
23 we looked specifically at were community stability,  
24 lifestyle preferences, and stakeholder concerns. And  
25 another example, for example with the economic

1 environment, of the kinds of objectives that were under  
2 consideration by the people involved in that particular  
3 exercise were the provincial and gross domestic  
4 product, value added, jobs, government revenues and  
5 costs and the value of exports. They were the basis  
6 for much of the evidence presented earlier and we  
7 carried that on through the analysis.

8           Now, I think what I will do is put up  
9 another overhead here. I should point out that the  
10 individuals involved in the exercise were asked to  
11 produce a relative ranking to identify a preferred  
12 alternative and also to provide the reasons for their  
13 ranking, so that there was -- obviously, we had access  
14 to the rationale for the ranking that was done because,  
15 quite frankly, in some instances some of the rankings  
16 perhaps didn't turn out the way we thought they had or  
17 would have, and we wanted to be sure that the basis for  
18 the choice was traceable, if you want.

19           But what this particular overhead does  
20 is, I think it's just a good way of conceptually  
21 identifying what you have been talking about. If you  
22 look at, for example, the natural environment, you had  
23 the various alternatives, and you will see that the  
24 natural environment has been broken down in terms of  
25 subcomponents -- or soil and site productivity, aquatic

1 and wildlife and, in each case, the individuals  
2 involved came up with a relative ranking of the  
3 alternatives and, of course, No. 1 is the preferred  
4 alternative which was the primary focus in the  
5 exercise.

6 And in terms of moving to an overall  
7 ranking for each environment, there was the need to  
8 come up with -- well, I should start over again here.  
9 We are dealing with three subcomponents there. We  
10 wanted to come up with an overall ranking for the  
11 natural environment concerns.

12 I should say that there was lots of  
13 discussion at the time the individual rankings came in  
14 about how we might go about doing this, and to be quite  
15 frank with you, we did not employ what I would  
16 characterize as a particularly complicated process.

17 One of the things that became apparent  
18 very early on - and you can see it here - is that if  
19 you look across individual alternatives in terms of the  
20 subcomponents, you find that there is a great deal of  
21 consistency in the ranking; so that timber management  
22 ranked 1 all the way across; whereas alternative B  
23 ranked 2 all the way across.

24 And to the extent that in each of the  
25 components of the environment that same kind of



1 situation occurred, we simply did the overall ranking  
2 on the basis of the fact that there was a consistency  
3 at each level.

4 THE CHAIRMAN: Mr. Clark, when you do a  
5 ranking based on the relativity between the  
6 alternatives that you choose--

7 MR. CLARK: Mm-hmm.

8 THE CHAIRMAN: --does that not, in  
9 effect, limit the value of the ranking in the sense  
10 that if you don't choose alternatives which are either  
11 very different from each other or ones which cover a  
12 broad range, then you may be comparing something which  
13 is better against everything else which would be worse  
14 and there is not much choice.

15 I don't know if I'm explaining that  
16 properly. Statistically speaking, and I'm certainly  
17 not an expert in statistics.

18 MR. CLARK: Nor am I.

19 THE CHAIRMAN: Where you are just dealing  
20 with two or three alternatives, because you haven't got  
21 a wide choice from which to choose, won't it work out  
22 that one or two of them will essentially be a lot  
23 better than the other one or two that you are ranking  
24 them against because you don't have a large choice  
25 against which to evaluate the ones that you are

1 ranking?

2 MR. CLARK: I am not sure whether or not  
3 you have a large choice or whether it's the essential  
4 characteristics and the objectives against which you  
5 are analysing them.

6 I think the distinction I would make is  
7 that in the case of -- and I hope I'm answering your  
8 question there. I think I understand your concern  
9 here. You are saying you have got a very limited  
10 number of objectives, or at least alternatives; only  
11 one or possibly two of them can realistically be  
12 thought to be acceptable.

13 And I would say acceptable in terms of  
14 what? That is the critical factor from my point of  
15 view. We could have a whole lot more and many of those  
16 might not be acceptable either.

17 I don't know whether I am --

18 THE CHAIRMAN: No, I think you got the  
19 gist of it. Because you have got such a small number  
20 against which you are ranking them relatively against  
21 each other, that the result is the preferred one will  
22 spring out rather readily.

23 MR. CLARK: Indeed. And, frankly, I  
24 think one of the messages that I have here today is  
25 that that is essentially the case here, and I don't

1 think there is any point suggesting otherwise.

2 In terms of objectives that were  
3 identified for the various components of the  
4 environment, the alternative of timber management was  
5 consistently the preferred alternative.

6 The other thing I think I would point out  
7 is that the choices were generally quite obvious to the  
8 people who were involved in the ranking, even as you  
9 move down through the alternatives, and I think; that  
10 is, they can explain those choices as well.

11 I indicated earlier that the rationale  
12 for the ranking of individual components are set out on  
13 pages 70 to 75 and in the appendix of the documents in  
14 some cases.

15 Now, I should just put the final table up  
16 which appears, I think it's on Page 71.

17 MS. BLASTORAH: That's right, Mr.  
18 Chairman. We didn't reproduce this in the package of  
19 overheads because it is contained in the statement of  
20 evidence at page 71.

21 Q. And am I correct, Mr. Clark, that  
22 this represents an overall ranking of the subcomponents  
23 of the environment?

24 MR. CLARK: A. That's correct, it's  
25 really bringing together all of the information that

1 was contained on the previous overhead that I showed  
2 you.

3 Q. Could you perhaps just move that  
4 overhead a bit to one side, it's not quite all on.

5 And in looking at that overhead perhaps  
6 then you could describe briefly how that final ranking  
7 process was carried out?

8 A. Well, my message is essentially the  
9 same as the one in dealing with the previous overhead.  
10 We considered a number of ways in which we might rank  
11 this, but as you can see if you run across the  
12 individual alternatives, across the various  
13 subcomponents there are consistencies in the ranking,  
14 and it was on that basis we ranked them. There was no  
15 averaging or manipulation of the figures.

16 Timber management was consistently ranked  
17 as 1 by the individuals involved in the exercise, and  
18 on that basis it ranked 1 overall. Likewise,  
19 alternative B, for example, ranked second and was  
20 ranked overall second.

21 Q. And, in your opinion, was the form of  
22 analysis and the level of detail employed in this  
23 exercise satisfactory?

24 A. Yes.

25 Q. And why do you say that?



1                   A. Well, I think it's important to  
2 recognize what the focus was from our perspective, and  
3 I think the evidence in the witness statement itself  
4 was that the level of analysis was directed at the  
5 provincial and subprovincial level as opposed to the  
6 local level.

7                   We are prepared to accept that in  
8 generalizing - and there is always some risk in doing  
9 that - that there are going to be situations where the  
10 ranking, for example we've identified here, might not  
11 apply in one way or another at any particular local  
12 situation. But viewed in the context of the area of  
13 the undertaking and looking at it from a provincial and  
14 subprovincial level, we felt that the level and kind of  
15 analysis was appropriate.

16                  The other reason I think that we feel  
17 some comfort with it was that we did put the onus on  
18 the individuals involved in the ranking to choose the  
19 level of analysis and detail that they employed, that  
20 they thought was appropriate to deal with the ranking  
21 and choosing of alternatives and the choice of a  
22 preferred alternative.

23                  One of the things that we were mindful of  
24 in the exercise was not moving to a level of analysis  
25 that would require more speculative assumptions. You

1 can always appear to be doing a far more detailed  
2 analysis, but at the same time the underlying  
3 assumptions that accompany that analysis may be highly  
4 speculative, and that was certainly one thing we were  
5 trying to avoid.

6 The last point was that the purpose, to a  
7 large extent, was to identify a preferred alternative,  
8 and in context of this particular exercise we felt that  
9 the analysis pointed that out quite clearly.

10 MR. FREIDIN: Does the Board have any  
11 additional questions on the overhead, because I think  
12 that was the end of Mr. Clark's presentation using the  
13 overheads.

14 Q. Is that correct?

15 A. That's correct.

16 THE CHAIRMAN: I take it, Mr. Freidin, in  
17 this particular undertaking that all that is up before  
18 the Board is the preferred alternative?

19 MR. FREIDIN: That is all we are asking  
20 approval for, as I will clearly define for you on  
21 Tuesday morning.

22 MS. BLASTORAH: Q. Mr. Clark, I have  
23 some additional questions in relation to specific  
24 issues raised by the Board and some of the parties.  
25 Perhaps I could ask you to address those now. I don't

1 think it will be necessary to use the overhead for that  
2 purpose.

3 Mr. Clark, I would like to turn to some  
4 of the issues as I indicated and, firstly, the Ministry  
5 of the Environment asked in their statement of issues  
6 the basis for the conclusion that timber management and  
7 alternative B are better for the natural environment  
8 than alternative A which we have characterized as the  
9 'do-nothing' alternative.

10 In doing the overall ranking of the  
11 alternatives to the undertaking which is set out in  
12 Table 5 on page 71 which we've just been looking at,  
13 you've ranked the alternatives in terms of three  
14 categories: the natural environment, the social  
15 environment and the economic environment, as you've  
16 just described.

17 What did you include in the natural  
18 environment in that context?

19 MR. CLARK: A. Well, as we indicated on  
20 page 70 of the material in the witness statement, the  
21 natural environment in that context includes  
22 considerations related to the aquatic and terrestrial  
23 environment, as well as site and soil productivity.

24 Q. And what would be included in the  
25 terrestrial environment as distinct from site and soil

1 productivity?

2 A. That would include terrestrial  
3 wildlife.

4 Q. Dr. Euler, I would like to turn to  
5 you then dealing with the issue of wildlife, and would  
6 you please explain how you rank the 'do-nothing'  
7 alternative A as compared to timber mangement and  
8 alternative B in terms of wildlife?

9 DR. EULER: A. In attempting to do that,  
10 it's very difficult to do that without involving some  
11 aspect of human objectives or human values, and that  
12 became a very difficult part of this analysis, to try  
13 to separate human objectives or human values in the  
14 natural environment.

15 In fact, in the end you can't do it  
16 because people and man are just inextricably linked to  
17 the forest and getting benefits from the forest. So  
18 the problem becomes - if you start applying judgments  
19 like an increase in a certain population of wildlife is  
20 good or a decrease the bad - it becomes very, very  
21 difficult to decide which species should be increased  
22 and which should be not increased - you want more moose  
23 but you want less black flies, for example, and you  
24 just get into terrible arguments of value judgments.

25 And we probably could have listed all the



1 species that are there and given some kind of  
2 positive/negative rank from our perspective, but it  
3 just didn't seem as though that would be a very helpful  
4 process.

5 THE CHAIRMAN: Dr. Euler, just so I can  
6 clarify your comments in the proper context, when you  
7 are talking about a comparison between doing nothing  
8 with no timber mangement in accordance with Ms.  
9 Blastorah's question, does that imply that there is no  
10 wildlife management?

11 DR. EULER: Well, no. See, our  
12 underlying assumption is that we would continue to try  
13 to achieve our wildlife objectives under all of these  
14 alternatives.

15 MS. BLASTORAH: Q. I guess what I'm  
16 saying is: We've heard that timber mangement involves  
17 application of all kinds of guidelines and those kinds  
18 of things, but some of those guidelines are under other  
19 programs, such as the wildlife programs per se.

20 DR. EULER: A. That's right.

21 Q. And I guess what I'm asking is: When  
22 you are doing the ranking and the analysis, are you  
23 assuming that when you are not applying timber  
24 mangement, that the wildlife program is also not being  
25 applied, or is it being applied in its normal course

1 but you are not applying any of the things that you  
2 would bring into timber management per se?

3 A. Yes, the latter half is true, we are  
4 applying all the things that we do in wildlife  
5 management except for the timber management tool,  
6 that's right.

7 Q. Perhaps I could just ask a point of  
8 clarification of Mr. Bisschop following from that.

9 We did have some information in the  
10 assumptions about which guidelines would be applied and  
11 I asked you about that yesterday.

12 Am I correct that under alternative A the  
13 Guidelines for the Protection or Provision of Wildlife  
14 Habitat, for instance, the Fish Habitat Guidelines and  
15 the Moose Habitat guidelines, would it be applied under  
16 alternative A?

17 MR. BISSCHOP: A. Under alternative A  
18 there would be no application of the guidelines.

19 If we return to Exhibit 987, the second  
20 page on the key assumptions, we've left it blank there  
21 in the sense that we are not practising timber  
22 mangement so we are not using all of the tools,  
23 including the guidelines available to us, because we  
24 are not carrying out timber mangement activities.

25 MRS. KOVEN: In other words, the

1 conclusion you want drawn is that timber mangement is a  
2 sizeable vehicle for implementing wildlife?

3 MR. BISSCHOP: I think that has been the  
4 evidence of Dr. Euler to date.

5 DR. EULER: Yes, very clearly. It's an  
6 important tool in achieving the objectives of the  
7 wildlife program.

8 MR. MARTEL: I will ask a question. I  
9 can't remember ever reading where some species died out  
10 left to its own devices, you may know some, but I can't  
11 recall any. In other words, before the white man got  
12 here it seems things survived, and as we interfered in  
13 the forest, species started to disappear.

14 And if you have a 'do-nothing' process  
15 which means you are not going to be out there  
16 harvesting, cutting through roads and so on, I would  
17 have difficulty coming up with the conclusion that A,  
18 at least from that point of view, would not be ranked  
19 higher.

20 MR. CASSIDY: I take it you are not  
21 referring to dinosaurs?

22 MR. MARTEL: You are going back a billion  
23 years, I'm talking about in modern times. I don't know  
24 any species - maybe the professionals do - but I can't  
25 recall reading of any, and I couldn't understand why A

1 ranked so badly, at least in doing nothing in terms of  
2 wildlife and so on.

3 DR. EULER: Well, yes, I understand that,  
4 and believe me, Mr. Martel, we have debated this at  
5 extraordinary lengths in our discussions on it in  
6 preparing this paper. And for me the only way out of  
7 that dilemma is because you link it to human  
8 objectives, you see, and our objectives are, first of  
9 all, to keep wildlife populations healthy.

10 Well, that is a little bit different from  
11 what nature might do, because species do go extinct  
12 naturally, they go extinct naturally, and then they  
13 arise naturally. So nature, if you will, is kind of an  
14 ebb and flow of rise and fall.

15 Now, we have applied an objective, a  
16 human objective that we don't want any more species to  
17 go down the tube because we have already been  
18 responsible for too many species going down the tube  
19 and we don't want any more. That is a little bit  
20 "unnatural", if you will, but it is an objective that  
21 underlies all of our activities in the forest.

22 And you see, you can look at it on the  
23 other side. In terms of moose populations, we are  
24 keeping moose populations higher than they would be if  
25 nature were left to her own devices because we have a



1       desire for certain benefits from that forest.

2                       So it all is related to our perception of  
3       getting benefits from that forest.

4                       MS. BLASTORAH:  Q.  Dr. Euler, perhaps I  
5       could just return to some of the comments you were  
6       making a moment ago.  I think just prior to the  
7       Chairman's question you indicated that you could have  
8       looked at each of the species individually and ranked  
9       them but you didn't feel that would really be a very  
10      helpful exercise.  Why do you say that?

11                      DR. EULER:  A.  Well, in some ways it's a  
12      bit false in a way because you are trying to put a  
13      mathematical computation on something that really isn't  
14      mathematical, it's value judgments.  And as species  
15      rise and fall, these are value judgment kind of things,  
16      and so we just didn't feel that that would be very  
17      helpful, and our benchmark here is the objectives of  
18      the wildlife management program.

19                      And so that is what we tried to compare  
20      the alternatives against.  And it seems very clear that  
21      in terms of achieving the objectives of the wildlife  
22      program, there is very little question that timber  
23      mangement in some form is the preferred alternative.

24                      THE CHAIRMAN:  But doesn't that mean,  
25      though, that your wildlife objectives were set in the

1 first place in full recognition that there would be  
2 timber mangement?

3 DR. EULER: Indeed it does, sir, yes.

4 THE CHAIRMAN: So I mean, it's circular;  
5 if you are using the wildlife objectives as the  
6 benchmark, then those objectives could probably, when  
7 they were set with reasonable expectation, only be  
8 obtained if in fact there was timber mangement?

9 DR. EULER: Well, certainly. I wouldn't  
10 characterize that as circular, though, I would  
11 characterize it as indicating how important it is to  
12 decide carefully what your wildlife objectives are,  
13 because once you decide them, a whole range of things  
14 happen and there are a whole range of implications  
15 following those objectives.

16 THE CHAIRMAN: I guess what I'm saying  
17 is: If you went to alternative A, then you would  
18 probably have to throw out your wildlife program  
19 because its objectives would be based on false  
20 premises?

21 DR. EULER: Exactly.

22 THE CHAIRMAN: You would be doing  
23 something which in fact you are not going to be doing?

24 DR. EULER: Exactly. That is exactly  
25 right.

1 MS. BLASTORAH: Q. Dr. Euler, a question  
2 following from that: Under the example the Chairman  
3 just gave under alternative A, assuming you were  
4 handicapped, as he has indicated, in your ability to  
5 achieve those objectives, as a professional biologist  
6 do you feel that those objectives would be any less  
7 valid? Notwithstanding the fact you aren't able to  
8 achieve them, would they still be something you would  
9 desire to achieve as a professional biologist?

10 DR. EULER: A. Well, yes, I think they  
11 would be valid objectives.

12 Q. So, in that sense, could they still  
13 be characterized as objectives notwithstanding you  
14 might feel handicapped in your ability to work towards  
15 those objectives?

16 A. I think so, yes.

17 Q. Thank you.

18 A. Neither alternative A or C provides  
19 any ability to effect habitat to any particular end,  
20 and in fact in C there would probably be a long-term  
21 decline in the softwood component which would change  
22 our ability to carry out our objectives and, thus, we  
23 came to the conclusion that timber management was the  
24 preferred objective for meeting the wildlife  
25 objectives.

1 Q. Dr. Euler, on a related issue, on  
2 page 95 of the witness statement you make the statement  
3 that the major problem with alternative A is that the  
4 benefits that people derive from wildlife would be  
5 reduced as compared to the current situation; that is,  
6 timber mangement.

7 The Chairman indicated during scoping  
8 that they felt that statement indicated that timber  
9 mangement activities can have a positive effect on what  
10 could be created in nature without those activities.  
11 Can you comment on that?

12 A. Yes. It's all really part and  
13 related to the discussion we're having, is: What is  
14 better and the value judgments that are occurring, and  
15 what we are trying to maintain as kind of an underlying  
16 theme is that timber mangement has certain very  
17 positive benefits to several wildlife species; some are  
18 neither harmed nor benefitted, and some are negatively  
19 affected, and we try to mitigate those negative effects  
20 again in order to achieve our objective.

21 So we are not trying to say that we are  
22 better than nature or somehow wiser than Mother Nature,  
23 but what we are trying to say is: The benefits that  
24 accrue to people are higher under the timber mangement  
25 scheme.



1                   Q. Mr. Armson, if I could turn to you  
2 now, I would like to ask you a similar question in  
3 relation to the issue raised by MOE.

4                   And perhaps you could describe to the  
5 Board what rank you ascribe to alternative A in  
6 relation to timber mangement and alternative B and why  
7 you developed that ranking?

8                   MR. ARMSON: A. Yes.

9                   Well, Mr. Chairman, I had some  
10 difficulty, or we had some difficulty in looking at  
11 this and basically for a reason, Mr. Chairman, that you  
12 raised yesterday, I believe; that is, in undertaking  
13 timber mangement, carrying out the activities we  
14 associate with it, it's not a question of how much you  
15 do in terms of: Can you do a part of timber mangement  
16 or not, you either are doing it or you're not doing it.

17                   So in looking at alternative A the  
18 question arose -- well, first of all, there is no  
19 management in alternative A; secondly, in terms of soil  
20 and site productivity - and this is the area we are  
21 dealing with - whether the productivity is high or low  
22 in relation to timber and wood is of no relevance since  
23 that is not the area from which wood is to be supplied  
24 under alternative A.

25                   So, in other words, it wasn't a question

1 really of ranking it as was noted in the overhead, it  
2 really is not applicable; that is, for alternative A.

3 Now, going to alternatives B and C where  
4 there is harvesting over time, we come to what is the  
5 way in which we would look at soil and site  
6 productivity and ranking it there. And we would say:  
7 Yes, there are differences in the forest that is being  
8 harvested as a result of a number of factors, but one  
9 of those factors or groups of factors would be the  
10 productivity or quality or properties of the soils and  
11 the sites themselves.

12 Therefore, in knowing what those  
13 differences are - and we have lots of historical  
14 evidence of this - in the exploitation, the simple  
15 harvesting, obviously the knowledge of these are more  
16 productive soils, would in fact drive, particularly in  
17 alternative C, the move to those more productive areas.

18 But what was being done in terms of  
19 harvesting, a simple act, would not be followed up by  
20 any other activities. So there is no management,  
21 therefore, there is no conscious effort to make use of  
22 the soil and site productivity.

23 So we said: Well, in B and C, although  
24 there may be some minor differences, in effect, they  
25 would rank second because you are using, if you like,

1 the soil and site productivity is in a passive state.

2 Now, just to highlight this. If you look  
3 at timber management you are not only, as you bring the  
4 natural forest under management, looking at natural  
5 differences in soil and site productivity - so that is  
6 similar to B and C - but what you are also bringing to  
7 it is a series of practices and decisions which relate  
8 to choices about what species you may insert into a  
9 given -- on a given soil or site; it is also where you  
10 make decisions about the nature of treatments,  
11 particularly maintenance treatments, tending, in order  
12 to enhance either by spacing or by some other form of a  
13 maintenance treatment to, in fact, enhance the growth  
14 from a given natural soil.

15 So you are looking at it in an active way  
16 rather than in, what I would say, the passive state.  
17 So that very simply said: Well, timber management in  
18 that regard is 1, because you are making use of your  
19 knowledge of soils and site actively in your management  
20 process.

21 THE CHAIRMAN: But if you are also  
22 comparing B and C where you don't have renewal  
23 treatments at all but you are harvesting--

24 MR. ARMSON: Yes.

25 THE CHAIRMAN: --then doesn't it follow

1       rather logically that timber management, which includes  
2       renewal treatments, would have to be better because you  
3       are taking out and just relying on natural regeneration  
4       in B and C and at the rate you are harvesting,  
5       obviously you can't catch up?

6                       MR. ARMSON: That's correct, and that is  
7       why those two were given a similar ranking as  
8       a No. 2.

9                       If you look at the ways in which  
10       management - and it doesn't have to be just timber  
11       management - one could go, by analogy, to agriculture.  
12       There are basically two groups of actions, if you like.  
13       There is -- and I guess tillage, if you like, in  
14       agriculture, fertilization, drainage, these are all  
15       very active practices over and above the choice of  
16       species and so on.

17                      In timber management - and I think in the  
18       previous panels this has been made clear particularly  
19       in 10 and 11, so on, and in 12 and 13, but particularly  
20       in 10 and 11 - we are dealing with not only the  
21       harvesting but relatively minimal, if you will, tillage  
22       practices; site preparation is for the most part a  
23       relatively minimal activity, may be major in certain  
24       instances, but one wouldn't characterize it by a total  
25       tillage of the soil normally.



1                   The key areas where in fact we use soil  
2                   and site productivity information in the choice of  
3                   species, as I indicated before, and in the renewal, for  
4                   example, is not only the species but the manner in  
5                   which that species is established and how it's tended  
6                   to spacing and so on. And this is really the  
7                   fundamental difference between B and C and timber  
8                   management.

9                   MS. BLASTORAH: Q. And Mr. Armson,  
10                  turning to an issue that was raised by the Board, the  
11                  Chairman asked for an explanation of the basis for the  
12                  statement on page 31 of the written material, that that  
13                  would be a sharply increasing trend to hardwood and  
14                  mixed stands where softwood stands now exist under  
15                  alternative B. Can you comment on that?

16                 MR. ARMSON: A. Yes. And the same  
17                 question was posed in an interrogatory by the Ontario  
18                 Federation of Anglers & Hunters and that was, I  
19                 believe, Interrogatory No. 20.

20                 MS. BLASTORAH: That is at page 9 of  
21                 Exhibit 986, Mr. Chairman.

22                 MR. ARMSON: And if I might, Mr.  
23                 Chairman, on that interrogatory it was really part C,  
24                 and if I -- I think the simplest way to answer the  
25                 question is to in fact read the response in the

1       interrogatory, if that is --

2                       MS. BLASTORAH:  It's quite brief, Mr.  
3       Chairman.

4                       MR. ARMSON:  It's a very brief one.  The  
5       question as posed; that is, 20(c)says:

6                       "Please provide the quantitative analysis  
7                       leading to the statement that.." and  
8                       quotation "...a sharply increasing trend  
9                       of hardwood and mixed stands where  
10                      softwood stands now exist".

11                      And the answer is:

12                      "The statement is not based upon one  
13                      quantitative analysis but an abundance of  
14                      professional and technical forestry  
15                      observations from the past decade which  
16                      are now manifested as accepted  
17                      silvicultural fact.

18                      The historical descriptions concerning  
19                      the reduction of area of red and white  
20                      pine in the Great Lakes/St. Lawrence  
21                      Forest region are voluminous.  The most  
22                      comprehensive documentation covering  
23                      regeneration for the period 1919 to  
24                      1950-- " and this is in Ontario, and I  
25       quote the source, "Hosie, R.C. 1953", he was formerly a

1 professor at the University of Toronto, and it's title  
2 is Forest Regeneration in Ontario, it was a Faculty of  
3 Forestry, Bulletin No. 2, and it was published by the  
4 University of Toronto Press. It's a fairly large  
5 document.

6 And what he did, Professor Hosie, he  
7 reviewed all the surveys that were available either by  
8 individual companies or by governments, federal or  
9 provincial, looked at those and the essence is that,  
10 given the type of harvesting methods that were used in  
11 that period, 1918-1952 I think it was, certain of the  
12 softwood stands, particularly the spruce lowlands, did  
13 regenerate to softwood, but on any of the upland mixed  
14 woods particularly - and these would be areas where the  
15 largest softwood individuals would occur - it was clear  
16 that they reverted to essentially not quite pure  
17 hardwoods but hardwoods predominating to a much greater  
18 degree.

19 Further, there are -- and I would suggest  
20 that in Panels 10 and 11 Mr. Hynard and Mr. Greenwood  
21 spoke to the matter of species and certain aspects of  
22 the silvics of those species, and I did also in Panel  
23 9, and it again reaffirms that the characteristics of  
24 removing softwood individuals, particularly from mixed  
25 wood stands, results in those areas reverting to or

1 coming back to a much larger proportion of hardwood.

2 MS. BLASTORAH: Q. Mr. Armson, another  
3 issue was raised by the Board in relation to the  
4 reduction in softwood supply under alternatives B and  
5 C.

6 On page 54 of the evidence you state that  
7 the main difference between those two alternatives, B  
8 and C, is that the reduction in softwood supply would  
9 not come quite as soon under alternative C because  
10 without the application of the guidelines there would  
11 be some harvesting in areas which are now no-cut  
12 reserves. You go on to state, however, that the  
13 difference probably would not be significant.

14 The Chairman indicated that he felt there  
15 was an inconsistency between that statement on page 54,  
16 which I've just read, and the earlier evidence of  
17 different panels to the effect that one must look at  
18 cutting in reserves if there is no legitimate reason  
19 for not cutting in a reserve.

20 Can you comment on that?

21 MR. ARMSON: A. Yes. Well, I remind the  
22 Chairman and the Board that I think there was some  
23 discussion of what was called the 'donut routine'  
24 whereby around each body of water there would be a  
25 fixed area that would be a no-cut reserve.



1                   And I think it was explained, in the  
2     Draconian way, often that precluded the harvesting of  
3     timber where it could quite reasonably be done without  
4     impacting negatively on other values, in other cases it  
5     may. That, I think, was explained.

6                   If we go to B and C, in alternative B  
7     with the guidelines, as compared with alternative C,  
8     the difference that I'm referring to on page 54,  
9     perhaps where the problem lies is that the availability  
10    of wood, particularly in alternative C where there are  
11    no guidelines applied, obviously each area of timber  
12    would become -- particularly softwood, would be readily  
13    available so that, in fact, you would rapidly move into  
14    smaller areas and deplete them of the required  
15    softwood.

16                  In B there would still be some areas that  
17    would not be available for timber harvesting.

18                  In terms of the local mill on a local  
19    basis, obviously C will provide immediate access, ready  
20    access to more softwood for a given area than would  
21    alternative B. But if you take the long haul, the  
22    difference is really minimal in terms of - and that is  
23    where perhaps the timing in terms of both local demand  
24    and then looking at the availability over the larger  
25    area and over the longer piece of time; in other words,

1 at a provincial level - that is perhaps where there was  
2 some misunderstanding.

3 MS. BLASTORAH: Does that satisfy your  
4 question, Mr. Chairman?

5 THE CHAIRMAN: Yes.

6 MS. BLASTORAH: Q. Dr. Allin, I would  
7 like to turn to you now then, and I'm going to be  
8 asking you to respond to the same issue raised by the  
9 Ministry of the Environment with regard to your  
10 relative ranking of alternative A.

11 But first I would like to ask you to  
12 clarify one matter in relation to your analysis of the  
13 alternatives to the undertaking.

14 Forests for Tomorrow has asked for an  
15 explanation of the basis on which you assigned low,  
16 medium and high impacts to the various categories of  
17 effects that you discuss in your appendix to the  
18 statement of evidence. Can you explain that?

19 DR. ALLIN: A. Yes. If I could just have  
20 an overhead put up first, please.

21 MS. BLASTORAH: And, Mr. Chairman, this a  
22 an overhead of Table 1 which is contained on page 91 of  
23 the statement of evidence. Consequently, we haven't  
24 provided another hard copy, it's not changed.

25 THE CHAIRMAN: For obvious reasons.

1 MS. BLASTORAH: Now, we did allow 10  
2 exhibits flex.

3 MR. CASSIDY: I'm shocked and appalled.

4 DR. ALLIN: I would like to explain very  
5 briefly the process that we went through in assigning  
6 impacts and carrying out this comparison.

7 The first thing we did was to identify  
8 the major categories of effect, and those are listed on  
9 the far left-hand column of the slide. Those,  
10 hopefully, will look familiar to you. They are  
11 basically the categories of effect that were discussed  
12 in the evidence of Panels 10 through 14.

13 MS. BLASTORAH: Dr. Allin, if I could  
14 just interrupt for a minute.

15 Mr. Chairman, it's on page 91, if you  
16 are...

17 THE CHAIRMAN: Thank you.

18 DR. ALLIN: After having identified those  
19 effects that we would look at, we then determined the  
20 type or the direction of each category of effect. As  
21 you will recall, in Panel 10 we discussed the fact that  
22 some effects like sedimentation are almost always  
23 negative in terms of their aquatic effects but, in  
24 other cases, a number of effects can be either positive  
25 or negative depending on a variety of circumstances.

1                   In some cases, for example, a little bit  
2                   of an effect may actually be positive, but a large  
3                   effect may be negative. So in those particular cases,  
4                   for those categories of effect where the effect can be  
5                   either positive or negative, we had to decide how to  
6                   treat those and, in effect, we treated them all as  
7                   negative.

8                   Now, that is consistent with what we said  
9                   in earlier evidence about our basically conservative  
10                  approach to protecting aquatic values where there is  
11                  uncertainty; in this case, it's uncertainty about the  
12                  direction of the effect.

13                  So in essence then, all effects and the  
14                  impacts were treated as if they were negative. So for  
15                  each alternative which are arrayed across the top in  
16                  the slide, we assigned or determined relative impact  
17                  for each category of effect. And perhaps the best way  
18                  to explain that is to use an example.

19                  If we look at erosion and sedimentation  
20                  and compare just two of the alternatives, timber  
21                  management and alternative C, we can perhaps give an  
22                  example of the kind of judgment that we made in going  
23                  through this process.

24                  Under timber management, with the use of  
25                  the various guidelines, we would expect that the impact



1 with respect to erosion would be low. On the other  
2 hand, under alternative C where there is no use of  
3 guidelines and, in fact, really no explicit  
4 consideration of non-timber values at all, we would  
5 expect the impact to be much higher.

6 So that difference is then reflected in  
7 the levels of impact that were assigned; low in the  
8 case of timber management, and very high in the case of  
9 alternative C.

10 So that is the kind of judgment that we  
11 made in going through this analysis. And those  
12 judgments were really based on information that was  
13 presented for the most part in earlier panels about  
14 potential effects of various timber management  
15 activities on the aquatic environment and also the  
16 potential effects of various kinds of natural  
17 disturbance such as wild fire, because that becomes  
18 quite important to this particular analysis.

19 For each alternative then and for each  
20 category of effect we assigned a level of impact, and  
21 those levels range from nil, where there is absolutely  
22 no potential for an effect, to very high.

23 There is a point here that I think is  
24 particularly important and that I want to emphasize;  
25 and, that is, that in carrying out a comparison of this

1 sort, the important thing is not so much the specific  
2 level of impact that is assigned in a particular  
3 situation, for example, whether an impact is rated as  
4 low as opposed to medium, the important thing for a  
5 comparison is the relative level of impact of the  
6 various alternatives.

7 And just to give you an example of that,  
8 if we look at water yield effects and look at, let's  
9 say, two of the alternatives, timber management and  
10 alternative A, the important thing is not really that  
11 the level of impact for timber management was assigned  
12 as low or that it was assigned as medium to alternative  
13 A, the really important thing is that the level of  
14 impact for all the alternative A was judged to be  
15 higher than it was for timber management.

16 So the point really that I want to  
17 emphasize is that this is a comparison and it's the  
18 relative levels of impact that are important.

19 MS. BLASTORAH: Q. Now, Dr. Allin, I  
20 would like to go back to the issue raised by the  
21 Ministry of the Environment in relation to the ranking  
22 of alternative A and I would ask you to explain why you  
23 concluded that timber management and alternative B  
24 would rank higher than alternative A in terms of the  
25 aquatic environment?

1 DR. ALLIN: A. Yes. Before I deal with  
2 that specific question I would like to discuss very  
3 briefly an assumption that underlay the analysis that  
4 we carried out.

5 In comparing the various alternatives we  
6 started from the premise that any impairment of the  
7 existing environment as it exists out there now would  
8 be negative. Now, in deciding what constitutes an  
9 impairment, as Dr. Euler has indicated, we had to make  
10 some sort of decision as to what we would consider to  
11 be in fact a bad thing or an impairment in terms of the  
12 aquatic environment, and that involves making some  
13 value judgment. And an example of that would be with  
14 respect to access effects. We assumed, for example,  
15 that a significant reduction in the fish population  
16 would be an impairment. So that is the kind of thing  
17 that we were faced with.

18 So basically the underlying assumption  
19 here is that any reduction in the current status of  
20 water quality or aquatic habitat or fish populations,  
21 as an example, would be essentially a bad thing.

22 THE CHAIRMAN: Well, what if the  
23 impairment, say, in fish populations was due entirely,  
24 for instance, to acid rain, to something that was not  
25 related to harvest or access or anything like that, but

1 something extraneous to the timber management  
2 activities?

3 DR. ALLIN: Well, that really didn't  
4 enter into our considerations of comparing the four  
5 alternatives.

6 MS. BLASTORAH: Q. Could I ask you a  
7 question, perhaps to help clarify that?

8 In considering the four alternatives,  
9 would it be fair to say that you considered the effects  
10 of the activities that would or would not be carried on  
11 under timber management as opposed to the effects of  
12 other extraneous things, as you have characterized it,  
13 such as acid rain?

14 DR. ALLIN: A. Yes, very much so.

15 Q. Thank you.

16 THE CHAIRMAN: So it doesn't mean --  
17 notwithstanding we have gone through this analysis, it  
18 doesn't mean that things are okay out there?

19 DR. ALLIN: That's right.

20 THE CHAIRMAN: In any event.

21 DR. ALLIN: There are lots of other  
22 problems, that's right.

23 To go back to the specific question that  
24 you asked about alternative A in comparison to timber  
25 management and alternative B.



1                   When you compare alternative A with other  
2 alternatives you have to consider the consequences of  
3 terminating timber management on Crown land and the  
4 events that are likely to result from that in relation  
5 to natural processes and disturbances that would go on.

6                   And looking at the specific comparison  
7 here, the differences among alternative A and timber  
8 management and alternative B relate to several  
9 categories of effect that are laid out on that table.

10                  To keep things reasonably brief I am  
11 going to deal with only two of them, water yield and  
12 erosion and sedimentation.

13                  If we look first at water yield, under  
14 alternative A we expect that there would be a  
15 substantial increase in both the total area burned by  
16 wild fire and also in the area that is burned  
17 intensely, and Mr. Armson has given some of the reasons  
18 for that.

19                  You may also recall that in Panel 10 we  
20 indicated that both wild fire and timber harvest can  
21 result in increased water yields, increased peak stream  
22 flows and that sort of thing, and that those events can  
23 have negative effects for the aquatic environment such  
24 as increased stream bank erosion and some adverse  
25 biological effects in terms of aquatic invertebrates

1 and fish eggs and that sort of thing.

2 Now, the differences among the  
3 alternatives here is that under alternative A the  
4 amount of forest cover removed would be substantially  
5 larger as a result of fire than would happen under  
6 either timber management or alternative B.

7 So alternative A then really has the  
8 highest potential for causing water yield effects, and  
9 that then was reflected in the relative levels of  
10 impact that we assigned to that category of effects.

11 MS. BLASTORAH: Q. Dr. Allin, if I could  
12 just ask you one question arising from that. You  
13 indicated that under alternative A fire would remove  
14 substantially more forest cover. Did you mean over  
15 time or at any point in time?

16 DR. ALLIN: A. In a given amount of  
17 time, in a specified period such as a year.

18 If we now then go on to look at erosion  
19 and sedimentation, there are a lot of differences among  
20 the alternatives and I will try to characterize or  
21 describe some of them.

22 Under alternative A relatively few roads  
23 would be maintained, and Mr. Bisschop referred to this  
24 yesterday I think. In addition to that, under  
25 alternative A roads would not be physically abandoned.

1 And to go back to evidence in Panel 14, that means that  
2 there would be no attempt made to prevent future  
3 erosion by such things as stabilizing banks or removing  
4 crossing structures or things of that type.

5 Now, under alternative A we expect that  
6 eventually most culverts would probably wash out, and  
7 that would happen for several reasons: It would happen  
8 either because culverts became blocked through debris  
9 or ice or whatever, it could also happen because a  
10 culvert may not be able to handle flood flow associated  
11 with a large storm, it might eventually also happen as  
12 a result of simply the culvert structure itself  
13 collapsing.

14 So we would expect that a large number of  
15 culvert washouts would occur and we would also expect  
16 that that would result in significant erosion and  
17 sedimentation and basically for two reasons: First of  
18 all, there are an awful lot of existing roads, water  
19 crossings and culverts out there, so there are a large  
20 number of culverts that would be subject to washout.

21 The other thing is that at any given site  
22 or at any given culvert very often there is a large  
23 amount of fill that would be available to that road if  
24 a washout did occur.

25 In addition to the washout issue, under

1 alternative A without road maintenance there would be  
2 continued erosion from road surfaces, fill and ditches,  
3 at least until the surfaces had become stabilized  
4 through revegetation.

5 So that essentially small problems like a  
6 small erosion channel would gradually get worse;  
7 whereas, under timber management with a maintenance  
8 program, those problems would be corrected before they  
9 became large.

10 So in that kind of a situation, where you  
11 have sort of chronic and increasing erosion as a result  
12 of lack of maintenance, that can also result in  
13 sedimentation if it occurs near a stream. So for a  
14 number of reasons we expect that there would be  
15 significant erosion and sedimentation under alternative  
16 A.

17 Now, of course, we would also expect  
18 there to be erosion and sedimentation under both timber  
19 management and alternative B, at least to some extent.  
20 However, having said that, the obvious difference is  
21 that we are using guidelines under timber management  
22 and also alternative B that we expect will be  
23 effective, so we expect that the increase in erosion  
24 under both of those alternatives would be relatively  
25 small.



1                   THE CHAIRMAN: Why is there the  
2 difference between B and timber management? If you are  
3 applying the guidelines in B - I mean, renewal - if you  
4 are applying the guidelines you are not going to be  
5 harvesting that close to the water anyways, so why is  
6 the renewal all that important in terms of - that seems  
7 to be the only other factor that is different to me?

8                   DR. ALLIN: Well, we do expect that under  
9 alternative B there will be somewhat more harvesting of  
10 shorelines than there is under timber management.

11                  THE CHAIRMAN: (nodding affirmatively)

12                  DR. ALLIN: That would still be done  
13 consistent with the Fish Habitat Guidelines, for  
14 example, but those options which provide for shoreline  
15 harvesting in some cases, such as on warm water lakes,  
16 would probably be taken advantage of to a greater  
17 extent. So we expect that there would be more  
18 shoreline harvesting and also probably, to some extent,  
19 additional roads and stream crossings under alternative  
20 B. So we expect there to be some difference there; not  
21 a great difference, but some difference.

22                  I also wanted to discuss differences  
23 among these three alternatives with respect to road  
24 maintenance and abandonment. If we look at timber  
25 management there are a number of things that would be

1 quite different from alternative A. For example, under  
2 timber management, primary roads are maintained  
3 indefinitely, so that erosion problems would not be a  
4 real factor.

5 In the case of secondary roads, the  
6 degree of maintenance or rebuilding in some cases is  
7 related to the timing of harvest and renewal and  
8 maintenance activities, so it does vary; but, for  
9 example, if you were carrying out a harvest that  
10 involved leave blocks, then obviously you would want to  
11 maintain roads and stream crossings to that harvested  
12 area, or in some cases rebuild them, essentially  
13 rejuvenate the road system in order to allow you to  
14 return to those blocks.

15 So there would be, again, less potential  
16 for erosion in that kind of a situation than there  
17 would be if you simply walked away from roads, which is  
18 essentially what we are assuming under alternative A.

19 There are other differences under timber  
20 management: Roads that have caused a problem in the  
21 past in relation to erosion, or those roads that are  
22 anticipated to cause problems in the future would be  
23 physically abandoned; in other words, action would be  
24 taken to prevent future erosion such as by removing a  
25 crossing structure and, in the case of naturally

1       abandoned roads, those roads would be inspected  
2       regularly, and if there is a significant problem  
3       identified, the Ministry would make every effort to  
4       correct it.

5                       So for all of these reasons, I guess, in  
6       relation to erosion and sedimentation, we judge that  
7       alternative A would have a higher negative impact than  
8       would either timber management or alternative B; and  
9       that, again, is reflected in the relative levels of  
10      impact that we assign to erosion and sedimentation  
11      among those alternatives.

12                      I mentioned a little while ago that I  
13      would discuss only two categories of effect, but I  
14      probably should at least indicate that we also judged  
15      that alternative A would have a higher impact than the  
16      other two alternatives with respect to several other  
17      categories of effects; and, those are, particularly:  
18      nutrients, temperature and access.

19                      So when we looked at the whole picture in  
20      terms of all categories of effect and levels of impact  
21      we made the judgment that alternative A would have a  
22      higher negative impact, with respect, than alternatives  
23      B or timber management, and that is reflected in the  
24      overall ranking that you see on the slide.

25                      THE CHAIRMAN: Ms. Blastorah, I think we

1       should take a break at some point.

2                   MS. BLASTORAH: Mr. Chairman, I have one  
3       more brief question for Mr. Clark and then it would be  
4       a convenient point to break, if I may.

5                   THE CHAIRMAN: Very well.

6                   MS. BLASTORAH: Q. Mr. Clark, Dr. Euler  
7       has indicated a few minutes ago that in ranking the  
8       alternatives in relation to their impacts on wildlife  
9       he found it very difficult to separate out human  
10      benefit or values from benefits to for wildlife, per  
11      se, and he discussed that.

12                   Was that difficulty taken into account in  
13      ranking the alternatives overall in terms of the  
14      natural environment versus what you separated out as  
15      the social and economic components of the environment?

16                   MR. CLARK: A. Yes, it was, and it may  
17      be helpful just to look at page 71 at Table 5 in the  
18      witness statement.

19                   As has been pointed out, in ranking the  
20      alternatives overall we attempted to separate out the  
21      natural component of the environment from the social  
22      and economic component of the environment, and I think  
23      conceptually you can appreciate that while we want to  
24      isolate them, for the purposes of analysis there is  
25      some overlap that is inevitable.



1                   And in doing so we have attempted, to the  
2                   extent it's possible, to eliminate any reference to  
3                   human value or benefits in dealing with the natural  
4                   environment. However, as Dr. Euler pointed out, it's  
5                   impossible to completely eliminate these values from  
6                   the analysis as there would be no basis on which to, in  
7                   effect, rank relatively the alternatives or choose a  
8                   preferred alternative.

9                   And I think Dr. Euler also indicated that  
10                  from his perspective it was important, as a wildlife  
11                  manager, to have the ability to set objectives and work  
12                  towards them, and that the only alternative that really  
13                  provided him with the ability to do that was timber  
14                  management.

15                 Now, in terms of the social environment,  
16                 as I pointed out earlier, we looked at a number of  
17                 different objectives and certainly one of the important  
18                 considerations that we were aware of was the need to  
19                 satisfy the objectives of various stakeholders. So  
20                 that, for example, having the ability to provide  
21                 opportunity -- hunting, trapping or viewing  
22                 opportunities, for example, in a wildlife context --  
23                 was important from a socio-economic point of view.

24                 And, in that regard, timber management  
25                 provided the best overall ability for us to do that

1 and, accordingly, that was an important consideration  
2 in coming up with the preferred ranking for timber  
3 management.

4 If, on the other hand, you look at the  
5 natural environment and you look at alternative B, the  
6 concern once again is to have the ability to manage the  
7 environment in order to provide opportunities and, for  
8 example, in alternative B where you are applying the  
9 moose guidelines, it provides you with an enhanced  
10 ability over, for example, alternative C to provide  
11 habitat for moose and, as a result, it ranks relatively  
12 higher. That was certainly an important consideration  
13 in coming up with the overall ranking in the natural  
14 environment side of it; on the other hand, timber  
15 management ranks higher than alternative B because you  
16 have an enhanced ability to manipulate the environment  
17 through that activity.

18 MS. BLASTORAH: Mr. Chairman, I think  
19 this would be a convenient point for a break.

20 THE CHAIRMAN: Okay. We will take 20  
21 minutes.

22 ---Recess taken at 10:35 a.m.

23 ---On resuming at 11:10 a.m.

24 THE CHAIRMAN: Thank you, ladies and  
25 gentlemen. Please be seated.

1 MS. BLASTORAH: Mr. Chairman, Mr. Cassidy  
2 had one brief matter he wished to address.

3 THE CHAIRMAN: Very well.

4 MR. CASSIDY: Actually two matters, but  
5 they are both very brief.

6 Yesterday was the deadline for the filing  
7 of statements of issues. I didn't get any, but for the  
8 one I got from the Ministry of Natural Resources and an  
9 indication from Mr. Edwards that he does not intend to  
10 cross-examine either of the first two OFIA/OLMA panels  
11 and, as a result, am I entitled to assume then that  
12 there will only be cross-examination from the Ministry  
13 of Natural Resources, Mr. Chairman?

14 MR. LINDGREN: Mr. Chairman, if I could  
15 speak to that very briefly.

16 MR. CASSIDY: I thought he would want to,  
17 but the reason I'm asking the question is we are going  
18 to need some direction as to when we get them.

19 MR. LINDGREN: Mr. Chairman, I just spoke  
20 with Ms. Swenarchuk and she advised me that our  
21 statement of issues was in fact delivered yesterday.

22 MR. CASSIDY: Well, I just spoke with my  
23 office and I'm prepared to swear an affidavit on the  
24 basis of what my secretary told me that we haven't got  
25 it.

1 THE CHAIRMAN: Okay. Well, I'm sure --

2 MR. CASSIDY: I mean, that's silly. I  
3 just checked two minutes ago and we don't have it and I  
4 have done a thorough search, Mr. Chairman.

5 THE CHAIRMAN: Okay. Well, put it this  
6 way: Mr. Lindgren, please recontact Ms. Swenarchuk.  
7 If, for some reason it's gone astray, you have a fax  
8 machine; don't you?

9 MR. LINDGREN: That's correct.

10 THE CHAIRMAN: Okay. Fax it over to Mr.  
11 Cassidy's office forthwith.

12 MR. CASSIDY: 364-7813 is the fax number.  
13 It's on the parties' list. And can I have some  
14 direction from the Board or clear direction from the  
15 parties that in fact they have to be distributed on the  
16 day they are due, not only to the Board but to the --

17 THE CHAIRMAN: Well, that is certainly--

18 MR. CASSIDY: --party who is leading the  
19 evidence.

20 THE CHAIRMAN: --the understanding of the  
21 Board but, Mr. Cassidy, there are quite a number of  
22 parties on the list. Most of the counsel are working  
23 diligently to meet some of these deadlines, there is a  
24 lot of volume and material to go through, and although  
25 the Board is going to want the time lines adhered to as



1 much as possible, we are going to be flexible in  
2 reasonable circumstances.

3 And certainly the fact that you will get  
4 this statement of issues today, if you already haven't  
5 got it, is not going to prejudice you in any way not  
6 having had it last night or yesterday.

7 MR. CASSIDY: Well, not having seen it, I  
8 can't say I necessarily agree with that, Mr. Chairman;  
9 however, I'm prepared to assume it for this morning.

10 I don't mean to be difficult on this,  
11 it's just the purpose of the scoping is that the  
12 parties leading the evidence can have the benefit of  
13 considering the matters in advance so we can make those  
14 sessions more productive.

15 THE CHAIRMAN: Yes.

16 MR. CASSIDY: And I'm prepared to be as  
17 flexible as possible, however I need some direction --

18 THE CHAIRMAN: Well, the Board will ask  
19 all parties again to try and do their very best to  
20 adhere to the time limits imposed by the Board.

21 Where there is problems, bring it to the  
22 attention of the Board. Where we think there has been  
23 flagrant abuse, we will deal with that accordingly.

24 MR. CASSIDY: Thank you.

25 MS. SEABORN: Mr. Chairman, had Mr.

1 Cassidy raised this with me before he raised it with  
2 the Board I could have told him that ours went out  
3 yesterday as well. I believe it went out by TDS, I'll  
4 check on that.

5 But in the future I think if Mr. Cassidy  
6 would just ask parties whether they have sent one, we  
7 can find out whether it's a delivery problem or whether  
8 you don't intend to cross-examine.

9 MR. CASSIDY: Well, Mr. Chairman, with  
10 the greatest respect, there are 28 full-time parties.  
11 Am I expected to make phone calls to 28 full-time  
12 parties?

13 THE CHAIRMAN: No, no. But we are  
14 dealing with a smaller core of parties who are the  
15 usual ones to cross-examine.

16 As you are aware, Mr. Cassidy, we are  
17 dealing with five or six parties that are the normal  
18 ones that cross-examine, not the 28 on the list.

19 MR. CASSIDY: That's fine. The other  
20 matter I would like to raise is, I have provided to all  
21 of the parties here and all the full-time parties an  
22 outline of the OFIA/OLMA evidence. In the outline  
23 there is a clear indication that my clients will be  
24 asking for a certain order in respect of directions in  
25 regard of the cross-examination of one of those panels.

1 I have also filed yesterday or served on the Board  
2 yesterday in Toronto a copy of that outline. After  
3 discussing with some of the counsel here that, if that  
4 was permissible, and I have done so.

5 What I would suggest we do is, in respect  
6 of the direction I'm seeking on that distribution  
7 regarding examination and cross-examination, that we  
8 deal with that at the scoping session on Panels 1 and 2  
9 after -- or, I'm sorry, on Panel 1; that is, I believe  
10 next Wednesday.

11 And, therefore, might I suggest that the  
12 Board, once you have the opportunity when you return to  
13 Toronto to read that outline, bring that with you and  
14 perhaps the other parties who are here, those read the  
15 transcript, so we can deal with it at that time.

16 And it occurs to me that that is a  
17 procedural matter which relates to the scoping of the  
18 hearing and, therefore, that is why I'm proposing,  
19 subject to any objections from the other people here,  
20 that we deal with at that time.

21 THE CHAIRMAN: Okay. Is it the type of  
22 thing that has to be dealt with by kind of formal  
23 motion?

24 MR. CASSIDY: I don't propose to deal  
25 with it by way of formal motion, however...

1 THE CHAIRMAN: Well, put it this way:  
2 Are you going to be bringing anything before the Board  
3 in support other than this outline?

4 MR. CASSIDY: No, no, other than the  
5 witness statements which have already been provided to  
6 the parties, and are in the course of being provided to  
7 the parties.

8 THE CHAIRMAN: Okay. It seems  
9 appropriate to deal with it at the time of the scoping.

10 MS. BLASTORAH: Mr. Chairman, I would  
11 like to return briefly to a couple of issues arising  
12 out of the evidence before the break, and I would like  
13 to go first to Mr. Clark on a point of clarification.

14 Q. When you were describing the three  
15 components into which the environment was broken down  
16 in doing the overall ranking, you indicated that you  
17 had done a ranking in terms of the natural environment,  
18 the economic environment and the social environment,  
19 and I would just ask you to comment on where, if at  
20 all, the cultural environment would fit into those  
21 three categories?

22 MR. CLARK: A. The assumption we made,  
23 and in doing our analysis the social environment  
24 included the cultural environment, so I guess we used  
25 an abbreviated form there. And in dealing with the



1 cultural environment, you may recall reading through  
2 the witness statement that we talked about lifestyle  
3 benefits and we also made reference to specific  
4 stakeholder groups, and the cultural considerations  
5 were built into those two areas of the analysis.

6 Q. Thank you. Mr. Armson, if I could  
7 turn to you briefly.

8 In discussing his ranking of alternative  
9 A before the break, Dr. Allin indicated that he had  
10 assumed in doing that ranking that fires under  
11 alternative A would burn over a larger area and would  
12 also burn more intensely.

13 Why was the assumption made that fires  
14 under alternative A would burn more intensely?

15 MR. ARMSON: A. The intensity of the  
16 fire, Mr. Chairman, is a function essentially of the  
17 amount of fuel on an area. And I think, if just to  
18 remind the Board, that in Panel 9 when I was talking  
19 about the development of a forest, a stand, we were  
20 looking at an increasing curve of accumulation of dry  
21 matter, so-called biomass; in other words, as trees  
22 grow they get larger and they have more substance.

23 Also, as they grow over time, the amount  
24 of forest floor if you recall, the Board, the surface  
25 organic layers on the soil, that increases because each

1 year there is litter falling on it, some of which will  
2 decompose but in our climate it in fact accumulates.

3 Now, in alternative A, what you have is a  
4 situation where the forest will grow over time, they  
5 will not be harvested; therefore, the amount of  
6 accumulation, it doesn't go on forever, it does in fact  
7 peak in terms of crown fuel but there is an increasing  
8 amount of material that falls down, trees that die and  
9 fall to the floor.

10 So there's fuel source of the crown which  
11 does peak before the stand reaches overmaturity. We  
12 have the falling material, dead wood; we also have the  
13 litter which, of course, is not now affected by any  
14 management treatment such as removing, harvesting a  
15 stand, site preparation which brings about an  
16 increase -- usually an increased decomposition of it.  
17 You have a forest floor fuel.

18 So that the four components there of the  
19 crown fuel, the dead material coming down, the litter  
20 which continues to accumulate, and the partially  
21 decomposed material, in effect, in that sense builds up  
22 so you have more fuel. So the intensity, therefore,  
23 per unit area will be higher.

24 Q. And, Mr. Armson, in relation to the  
25 fuel on the forest floor which you've been discussing,

1 does that relate in any way to the levels of fire  
2 protection?

3 A. Yes, because in terms of the  
4 suppression you are in fact -- it relates really more  
5 to the management than the suppression activity. In  
6 terms of the lack of suppression on the alternative A,  
7 obviously then you are permitting greater amounts of  
8 fuel buildup.

9 Q. And that would compare to --

10 A. Compare to the management, the timber  
11 mangement option where not only your management  
12 practices but your suppression are factors that are  
13 reducing fuel buildup.

14 Q. And under the current situation of  
15 timber management, is there some buildup of forest  
16 floor fuels which result from current levels of fire  
17 suppression?

18 A. Yes. There is, yes, a buildup.

19 Q. And under alternative A would that  
20 buildup which has resulted as a fact of timber  
21 management have any impact on what would then happen  
22 under alternative A?

23 A. Well, there will be a greater fuel  
24 buildup -- significantly greater fuel buildup, and  
25 therefore, the intensity of any fires would be greater.

1 Q. Thank you.

2 I would like to turn now again to Dr.  
3 Euler, and this is on an issue related to the one we  
4 were discussing before the break which was the ranking  
5 of alternative A.

6 On page 95 of the statement of  
7 evidence -- I'm sorry, I'm on the wrong page of my  
8 notes, Mr. Chairman, we've already dealt with it. I  
9 did intend to come back to Dr. Euler, however, which  
10 was the state of my confusion.

11 Forests for Tomorrow asked for the basis  
12 for your conclusion that hunting opportunities would  
13 diminish under alternative A. Could you explain that,  
14 please?

15 DR. EULER: A. Yes. We did make the  
16 point that deer and moose populations would probably be  
17 lower under a situation where timber management was not  
18 occurring, and these smaller game species would also be  
19 lower under those circumstances.

20 And you may recall in Panel 10 I showed a  
21 series of slides to illustrate the necessary components  
22 of moose habitat. We talked about early succession and  
23 winter shelter and so on and we talked about the  
24 bedroom being close to the dining room.

25 And what we were trying to point out is



1 having the good habitat features close to each other  
2 means that more animals can live there than when the  
3 good habitat features are widely separated.

4 And under timber management you are able  
5 to disperse the habitat elements in such a way that you  
6 can have the species that you want where you need them  
7 and you can disperse them over the landscape; as  
8 opposed to alternative A, where the natural events that  
9 would occur would mean the habitat elements wouldn't be  
10 as close to each other, and so there would be a more  
11 patchy distribution of animals across the landscape and  
12 there would be fewer of them.

13 Consequently, you would have to reduce  
14 the number of people who are hunting, otherwise you  
15 would have unacceptable losses to the population.

16 And so the net end result is you would  
17 have fewer opportunities for people to go hunting under  
18 alternative A than under timber management.

19 Q. And, Dr. Allin, you reached a similar  
20 conclusion in doing your ranking that fishing  
21 opportunities would diminish under alternative A.  
22 Would you explain the basis for that conclusion?

23 DR. ALLIN: A. Yes. That conclusion was  
24 based on basically the same point that Dr. Euler was  
25 mentioning with respect to access; and, that is, that

1 under alternative A as roads deteriorated with time,  
2 eventually they would become impassable and so many  
3 lakes in fact would no longer be accessible by road and  
4 that would result in a decline in fishing  
5 opportunities, at least in many parts of the area of  
6 undertaking. So that was the major conclusion.

7 Now, assuming that the demand for fishing  
8 opportunities remained the same, fishing pressure would  
9 presumably increase in those areas that still remained  
10 accessible by road and, in effect, then you would have  
11 fishing pressure concentrated on a smaller number of  
12 lakes. So looking at the area of the undertaking as a  
13 whole, fishing opportunities would decline at least in  
14 a very substantial portion of it.

15 Q. And Dr. Euler, am I correct that you  
16 indicated in giving your response that the inability to  
17 create a dispersal, if you will, of various types of  
18 habitat over the area of the undertaking would result  
19 in pockets of populations and you wouldn't have the  
20 more dispersed mix that you are able to achieve under  
21 timber management.

22 And I'm not sure whether you addressed  
23 the issue of access to those or not, I may have missed  
24 that. Would access have any effect on how you were  
25 able to allow levels of hunting?

1 DR. EULER: A. Well, yes. Access would  
2 be a factor there as well because there would probably  
3 be a tendency of people to do their hunting in these  
4 pockets of higher density, and so you would have to be  
5 very concerned about access; what roads were there,  
6 were not there, what other waterways, or whatever other  
7 methods of getting to the population was there.

8 So, yes, that would be an important part  
9 of your management consideration as well.

10 And there would also be some concern  
11 along these lines with regard to non-game species in  
12 that if you are trying to manipulate habitat to retain  
13 species that are not hunted that may be in trouble for  
14 some reason, you don't have near as much ability to  
15 maintain those species that are in trouble without some  
16 method of going in and manipulating forest stands.

17 Q. And in relation to populations which,  
18 notwithstanding the inability to provide dispersed  
19 populations, would it be possible that you would still  
20 have pockets, as you've described it, of population in  
21 more remote areas?

22 A. Yes.

23 Q. And would access relate to the  
24 ability to provide hunting opportunities in those  
25 situations?

1                   A. Well, yes, that's true. If you had a  
2 pocket in a remote location and it was extremely  
3 difficult to get there, then of course the amount of  
4 hunting opportunities would be diminished.

5                   Q. Thank you.

6                   Mr. Armson, I would like to refer you now  
7 to an issue raised by the industry associations.

8                   On page 39 of the written material - and  
9 I don't think it's necessary for the Board to turn to  
10 that - the statement is made in relation to alternative  
11 B that more shoreline cutting would probably occur in  
12 the long term than under timber management. Why did  
13 you reach that conclusion?

14                  MR. ARMSON: A. Because under the  
15 guidelines there would be, I think, a pressure, if you  
16 will, particularly for softwood timber under those --  
17 under that alternative.

18                  Q. Thank you.

19                  Dr. Allin, Forests for Tomorrow  
20 questioned the treatment of acidification effects in  
21 the analysis. Will you explain that, please?

22                  DR. ALLIN: A. Well, we did consider how  
23 we might address acidification effects, and as we  
24 indicated in the statement of evidence itself, we  
25 didn't include acidification effects in the overall



1 analysis or at least the results of the analysis simply  
2 because the effects of timber management on water  
3 acidity are so uncertain.

4           You may recall again that in Panel 10 we  
5 indicated that a number of scientific papers discuss  
6 potential changes in water acidity as a result of  
7 particularly timber harvest. There have been a number  
8 of short-term effects that have been observed, but  
9 those effects have been extremely variable,  
10 contradictory and -- actually not just contradictory  
11 among studies, but even contradictory within the same  
12 study.

13           Sometimes water acidity has been reported  
14 to increase, but - in relation to clearcutting, I  
15 should add - but in equally as many cases, water  
16 acidity has been reported to decrease, or in fact in  
17 some cases, to remain the same.

18           So if you look at the various categories  
19 of effect, the uncertainty surrounding acidification  
20 effects is considerably greater than it is with respect  
21 to other effects.

22           With other kinds of effects we basically  
23 know what the effect is in the sense that there is an  
24 increase or a decrease of something in water after  
25 harvest, say, but in the case of acidification, the

1 very nature of any effect is simply unknown.

2 Now, that uncertainty that relates to  
3 timber management also applies to some of the other  
4 alternatives, particularly alternatives B and C,  
5 because they also involve timber harvest.

6 So essentially in looking at this whole  
7 question there was so much uncertainty about  
8 acidification effects that we felt to include those  
9 kinds of effects in the analysis just would not be  
10 helpful to the Board. Basically there is no real basis  
11 for comparing the alternatives with respect to  
12 acidification. I guess that is the bottom line.

13 THE CHAIRMAN: In any event, can you not  
14 argue that regardless of the amount contributed to by  
15 harvest, the bulk of what is known about acidification  
16 comes from other sources in any event, or can you say  
17 that?

18 DR. ALLIN: In relation to acid rain  
19 or --

20 THE CHAIRMAN: Yes, or other types of  
21 emissions of some kind.

22 DR. ALLIN: Well, certainly the effects  
23 are better understood, and in some areas of the  
24 province I would certainly agree that that is  
25 undoubtedly true, where the acid rain loading is

1 particularly heavy, the contribution from logging  
2 activities is just very uncertain.

3 MS. BLASTORAH: Q. Mr. Armson, I would  
4 ask you to turn to page 48 of the written material.

5 MR. ARMSON: A. Yes, I have that.

6 Q. In relation to the second point on  
7 that page, the Board asked for an explanation as to how  
8 stumpage rates are set and how those rates relate to  
9 industry performance which are the Board's views on  
10 that page.

11 First of all, will you explain what you  
12 meant in the reference on page 48 to industry  
13 performance?

14 A. By industry performance we were  
15 referring to the amount of harvest that was taken; that  
16 is, very simplistically, the amount of wood that was  
17 cut.

18 Q. Can you explain in that context then  
19 how stumpage is calculated?

20 A. First of all, stumpage represents the  
21 monies, the charges that the industry pays to the Crown  
22 and it is an amount of money based on a per cubic metre  
23 amount of wood that is harvested.

24 Q. And how are the rates then  
25 established?

1                   A. The rates -- there are two classes of  
2                   licensees and these are set out in a document which is  
3                   a part of Exhibit 918, and this is the Crown Timber Act  
4                   and is the related regulation, No. 234.

5                   The rates are based on licensees who are  
6                   classed as integrated licensees and in the regulation  
7                   those persons are defined as those who operate a pulp  
8                   mill in Manitoba, Ontario or Quebec or are related to  
9                   such persons; the non-integrated are defined as those  
10                  who are not integrated.

11                  In simplistic terms, an integrated  
12                  licence --

13                  THE CHAIRMAN: Sounds like a perfectly  
14                  rational legal definition.

15                  MR. ARMSON: I'm reminded, Mr. Chairman,  
16                  in one of the previous panels when I was describing  
17                  soil structure and I said the first category was  
18                  structureless, and I believe Mr. Martel commented.  
19                  Well, the same logic apparently applies in the area of  
20                  licensing.

21                  In simplistic terms, an integrated  
22                  licensee is a pulp and paper licensee; and sawmillers,  
23                  I guess, are the way we would think of the  
24                  non-integrated. So that is the first step.

25                  MS. BLASTORAH: Q. And is there any



1 relation between the rates and the species cut?

2 MR. ARMSON: A. Yes, there is. The  
3 rates are set by species for those two sets of  
4 licensees; for example, for spruce, for pine, for  
5 hardwoods, and then for poplar and birch. The  
6 hardwoods, poplar and birch, are separated out actually  
7 as a generic species.

8 Q. And is there any sense then in which  
9 the rate set relates to industry productivity as you've  
10 used that term in the material?

11 A. Well, in terms of, if there is more  
12 wood cut, then there will be more stumpage revenue  
13 coming in. And so if you look at the stumpage revenue,  
14 it fluctuates or changes with the amount of wood that  
15 is harvested.

16 Q. In relation to the same point on page  
17 48, the Board asked whether there is any system for  
18 fluctuating stumpage rates to the value of the tree cut  
19 as opposed to the number of trees harvested. You've  
20 already linked it to volume, if you will.

21 A. Yes. The stumpage rates which, as I  
22 say, are different for the two kinds of licensees and  
23 also differentiated by species to a certain degree.

24 In the past, historically they have been  
25 set arbitrarily in what we call a base rate, but

1 beginning in the late 1970s a process and a formula for  
2 so-called indexing was applied to that rate, and that  
3 is the current situation.

4 And the indices for the non-integrated,  
5 for example, is - and there is a benchmark, I believe,  
6 1981 was used as 100 - is set on the basis of a selling  
7 price published by Stats Can for lumber -- spruce  
8 lumber east of the Rockies. In other words, there is a  
9 Stats Can number which is used in determining the  
10 stumpage as related to a selling price.

11 In terms of the integrated, the indexing,  
12 if you will, the index that is used is again another  
13 Stats Can index - and these are published monthly, I  
14 should say - and that is put into the hopper, if you  
15 will, the formula for the wood harvested by the  
16 integrated licensee.

17 Now, I should also mention that although  
18 the indices are published monthly, the actual index  
19 that is used, in other words the charge that applies to  
20 the licensee, is based on a quarterly time frame, so  
21 there is kind of a monthly moving process because the  
22 stumpage charges are in fact due on a quarterly basis.

23 Q. So in response to the Chairman's  
24 question as to whether stumpage rates would be reduced  
25 in a poor economic setting or increased with a good

1 performance year, can you advise whether that is the  
2 case?

3 A. To the degree that the Stats Can  
4 index, which is based on a selling price in one case  
5 for lumber and in the other case for pulp, as those  
6 prices fluctuate then so will the indices and,  
7 therefore, so will the actual stumpage rate.

8 So to that degree there is a linkage.  
9 Then presumably when the prices -- the factors that  
10 control the price of lumber and the price of pulp may  
11 be, of course, factors that are applicable beyond -  
12 obviously in the global marketplace - beyond just the  
13 confines of Ontario.

14 MRS. KOVEN: Mr. Armson, could you remind  
15 me what area charges cover again?

16 MR. ARMSON: Yes. Area charges are the  
17 charge set which is paid by each licensee on a square  
18 kilometre basis. Those charges are not linked to  
19 productivity or any other factor, they are for the  
20 productive forest area as defined in the licence and  
21 are paid.

22 MS. BLASTORAH: Q. And finally on that  
23 point, Mr. Armson, the Board asked for figures with  
24 regard to the amount of stumpage collected annually,  
25 and Mr. Martel asked for annual expenditures by the

1 province.

2 And I'm not just clear on what type of  
3 expenditures Mr. Martel was asking about, but perhaps  
4 you could comment on that generally.

5 MR. ARMSON: A. Yes. And the figures I  
6 will give the Board are those for fiscal 1987/88, and I  
7 think the reason will become apparent later on.

8 The total stumpage revenues in that  
9 period - these are the actuals - were \$74.6-million.

10 Now, with relation to Mr. Martel's  
11 question, that is the amount of stumpage and that does  
12 not -- incidentally, Ms. Koven, that does not include  
13 an area charge. The exact figure for that is somewhere  
14 around 7- or 8-million, something like that.

15 The total forest management activity,  
16 that is the expenditures by the Ministry on what is  
17 called the forest management activity, the actual  
18 expenditures were \$221.2-million.

19 Now, Mr. Martel, I believe you were  
20 concerned about the amount that was spent in what we'll  
21 call silvicultural activities. And that it was -- so  
22 of the 221.2-million, 158.5-million were actually spent  
23 on silvicultural activities.

24 Q. And Mr. Armson, when you refer to the  
25 forest management activity in that answer you just



1 gave, what are you including in that?

2 A. Well, we are including planning,  
3 inventories, surveys of all kinds, regeneration  
4 surveys, operational cruising, data collection of all  
5 types, regeneration and site preparation, tree marking,  
6 tending, all those activities that we've talked about  
7 essentially in renewal and in maintenance.

8 In terms of the tending part, weed  
9 control and so on, research and development is included  
10 in that, the tree improvement aspects, seed collection,  
11 seeding production - seeding production in both the  
12 Ministry nurseries and by private growers - and  
13 expenditures on -- these are expenditures on not only  
14 Crown but also on private land forest through the  
15 private land program. And it also includes the  
16 expenditures in forest management agreements.

17 Q. And, Mr. Armson, on that last point,  
18 can you tell us what the total expenditure for the year  
19 you are speaking of would be in relation to forest  
20 management agreements?

21 A. Yes. For the same year; that is,  
22 fiscal 1977/78, the actual expenditures were  
23 \$73-million.

24 Q. And I don't believe you indicated - I  
25 may be wrong - but could you give the source of the

1 figures you provided?

2 A. Yes. These are from the Ministry of  
3 Natural Resources' estimates and they are the estimates  
4 that are tabled in the legislature and then publically  
5 available.

6 THE CHAIRMAN: That just includes  
7 expenditures by the Ministry, it doesn't include  
8 contributions by industry?

9 MR. ARMSON: That's correct.

10 THE CHAIRMAN: But it includes  
11 reimbursement by Ministry to industry?

12 MR. ARMSON: That's correct. And  
13 obviously under the forest management agreement program  
14 those expenditures would be for the regeneration  
15 treatments and whatever payments are made for roads,  
16 that's correct, in that 73-million.

17 THE CHAIRMAN: But in addition to what  
18 they get reimbursed, industry spends "X" amount on  
19 their own timber management?

20 MR. ARMSON: That is correct. And I  
21 believe some panels some many months ago, that was  
22 mentioned.

23 MS. BLASTORAH: You may recall, Mr.  
24 Chairman, I believe Mr. Bisschop indicated in his  
25 evidence with regard to the assumption on roads under

1 alternative A, he indicated that there were substantial  
2 expenditures by the industry on road maintenance, for  
3 example.

4 MR. ARMSON: Yes, and on planning and on  
5 many other activities.

6 MS. BLASTORAH: Q. And, Mr. Armson, just  
7 one last question before I leave this area. You have  
8 provided figures for the 1987/88 fiscal year. Is there  
9 any reason you didn't provide more recent figures?

10 MR. ARMSON: A. They are the actual  
11 expenditures and revenues and they are the only ones  
12 that are publically available at this time.

13 MS. BLASTORAH: Thank you.

14 THE CHAIRMAN: Mr. Armson, the revenue  
15 generated in terms of charges--

16 MR. ARMSON: Yes.

17 THE CHAIRMAN: --is less than 50 percent  
18 of just the expenditures of the Ministry, based on  
19 those figures?

20 MR. ARMSON: That's correct.

21 THE CHAIRMAN: Was it ever intended that  
22 the industry -- that the management of the industry  
23 itself should be self-sustaining?

24 MR. ARMSON: I guess, Mr. Chairman, I  
25 have to say: Intended by whom, in the sense that the

1 charges as set by government are at this level, one can  
2 presume that they are not.

3 I have difficulty answering it. There  
4 are people who would contend that, yes, and others who  
5 would argue no. There is no policy statement, to my  
6 knowledge, that sets that forth, but there should be a  
7 balance.

8 THE CHAIRMAN: All right. So we can  
9 assume from the actual figures that this is  
10 essentially - I don't want to use the word 'intended' -  
11 but the actual situation is accepted that this is, in  
12 effect, a subsidized industry?

13 MR. ARMSON: Well, if I might, Mr.  
14 Chairman, there are, as I say, two points of view. One  
15 could argue, and there are many people who would both  
16 within government and without, that in fact there  
17 should be a move towards bringing expenditures and  
18 revenues closer and, in fact, there are --

19 THE CHAIRMAN: But it doesn't take into  
20 account the fact that if the industry generates, as  
21 part of the gross national product, "X" millions or  
22 billions of dollars, that they put back into the  
23 economy in terms of jobs, income taxation, corporate  
24 taxation, all of those things, you know, puts money  
25 back into the public pot as well, obviously?



1 MR. ARMSON: Well, the other argument,  
2 and there are many who would argue that the indirect  
3 revenues to the owner - and we are speaking of Crown  
4 land here - far outweigh, and they do in fact, outweigh  
5 the expenditures.

6 THE CHAIRMAN: All right. Yes.

7 MR. ARMSON: Correct.

8 MS. BLASTORAH: Mr. Chairman, you may  
9 recall we had some brief discussion of the difficulty  
10 in even identifying all of the many, many indirect  
11 revenues to the province as a result of the industry.

12 MR. MARTEL: Didn't that type of subsidy  
13 though lead to the Federal Government - because the  
14 Americans were doing all of the arguing - getting the  
15 increased tax now being paid, because the subsidy was  
16 considered unfair to American producers?

17 MR. ARMSON: Yes. In the most recent  
18 countervale action that was the determination by the  
19 United States, and the Federal Government of Canada  
20 then imposed that tax and two provinces have changed  
21 their stumpage levels as a consequence.

22 MR. MARTEL: That is now in fact hurting  
23 the small - not the pulp and paper industry as much as  
24 it is the small producer in the lumber industry?

25 MR. ARMSON: That is correct, yes. Many

1 of the smaller licensees in those provinces, but  
2 particularly British Columbia, had very significant  
3 increases in stumpage rates, I believe.

4 MS. BLASTORAH: Q. Mr. Clark, if I could  
5 turn to you for a few final matters in relation to  
6 Document No. 1 in the evidence.

7 Again, this was a question posed by the  
8 Board. The Board asked whether the Ministry in doing  
9 its analysis of the alternatives to the undertaking had  
10 looked at the social and economic impacts or  
11 dislocation costs, if you will, for communities where  
12 timber management had ceased. Could you respond to  
13 that query?

14 MR. CLARK: A. I think the question  
15 actually indicated whether or not we had done any  
16 particular studies or we had access to studies, and the  
17 short answer to your question is no, and I would like  
18 to elaborate, if I could, because I think it is rather  
19 important that you understand some of the reasons for  
20 this.

21 I should say in responding to your answer  
22 we consulted with the Ministry of Northern Development  
23 and Mines, the Ministry of Labour, and the Ministry of  
24 Treasury and Economics and the Federal Government, and  
25 those agencies indicated that they had not undertaken

1 any studies with respect to the socio-economic effects  
2 of mill closures or the cessation of timber management  
3 activities in a particular area, nor were they aware of  
4 any studies of this kind that related specifically to  
5 timber management.

6 And I want to stress that I don't think  
7 that the absence of these studies necessarily implies  
8 that, (1) the government does not respond in a  
9 responsible way when there are downturns in timber  
10 management or mill closures; specifically, for example,  
11 pulp mills or sawmills more particularly perhaps, or  
12 that it necessarily invalidates our forecasts. And I  
13 think there is a number of reasons for this.

14 First of all, I think that you have to  
15 keep in mind, in terms of the exercise that we have  
16 been talking about today, that the analysis we  
17 undertook was at the provincial and subprovincial level  
18 and there were some very, very sort of salient  
19 statistics that we kept in mind relative to economic  
20 impact, particularly as it related to the forest  
21 industry.

22 And a number of those that I'm sure you  
23 are familiar with were noted by Ms. Coke in Panel 5;  
24 and, that was, that there were 72,000 residents of  
25 Ontario directly involved in employment activities

1 relating to the forest industry, and that 80 per cent  
2 of manufacturing activity in the northwestern portion  
3 of the area of the undertaking and 45 per cent in the  
4 northeast was directly related to -- or was related to  
5 timber management. So that the orders of magnitude and  
6 the significance that we were dealing with were very  
7 great.

8 And, as I say, dealing with this issue at  
9 the provincial and subprovincial level, those were the  
10 kinds of orders of magnitude that we kept in mind in  
11 doing our analysis. And certainly, as I think we  
12 pointed out in our discussion of the alternatives, we  
13 didn't think a more detailed level of analysis was  
14 necessary.

15 Now, I think there is another reason.  
16 You may ask the question: Well, there are -- and I  
17 agree, there are studies that have been done on the  
18 mine closures. For example, I know in Wawa there were  
19 studies done, I'm sure there were studies done in  
20 Capreol when they closed the iron/ore mine there, I  
21 know there were studies done in Ear Falls and a variety  
22 of other locations - and I guess the question that  
23 arises, and certainly one that I considered is: Why is  
24 it that in the mining sector they have occurred and why  
25 not in the forest industry?



1                   And I think the best answer I can provide  
2     for you here is that, in relative terms, the forest  
3     industry is generally more stable and while it's  
4     subject from time to time to downturns either in timber  
5     management activity or in the level of production in  
6     mills, closures are certainly not as common as one  
7     might find in the mining industry where I have always  
8     characterized it as a sort of manic/depressive economy  
9     where things are going extremely well and the mines are  
10    operating at full tilt, or you have the situation where  
11    over a number of years it's quite clear that there is  
12    going to be a closure, and that communities can take  
13    the time to undertake the studies, or the government  
14    can to adjust to some extent to those.

15                   And, Mr. Martel, I see you smiling and I  
16    have been through that.

17                   MR. MARTEL:    So have I.

18                   MR. CLARK:    And I appreciate the  
19    suddenness with which these things can occur,  
20    particularly in the mining sector.

21                   So we do have them in the mining sector.  
22    We don't have them -- haven't had them historically on  
23    the forest side and I think it has something to do with  
24    the stability inherent in the industry.

25                   The other point I would make, I'm not

1 always sure it's necessary to do a study, per se.  
2 Doing a study in itself can create -- when you are  
3 involved in these situations, doing a study in the  
4 community can have almost as negative an effect as the  
5 closure because usually the effects are fairly obvious.

6 And I think more importantly it may be  
7 useful to look at how government does respond in these  
8 situations, at least as I understand it. I think that  
9 the normal approach is for government agencies to work  
10 collectively with communities on a cooperative basis to  
11 attempt to analyse potentials and, in instances where  
12 government involvement is necessary or appropriate, to  
13 assist in fast-tracking those initiatives.

14 And there are a number of examples of  
15 this that I can cite. For example, in the  
16 Temagami/Temiskaming area we have what is known as the  
17 Temagami/Temiskaming Co-ordinating Committee. And that  
18 particular region is faced with a number of potential  
19 slowdowns or downturns in the economy related to both  
20 logging and mining. And in that particular instance  
21 there is, say, a multi-agency committee that is chaired  
22 by the Ministry of Northern Development and Mines who  
23 plays a significant co-ordinating role in these  
24 activities in northern Ontario.

25 And they are addressing themselves to

1       those -- to (1) facilitating communities in  
2       identification of alternative means of restructuring  
3       their economies in light of changes that are occurring  
4       either as a result of the closures of mines or  
5       slowdowns on the timber side. And also I think, as I  
6       pointed out earlier, encouraging or fast-tracking  
7       government initiatives that are either necessary or  
8       appropriate.

9                       So I apologize for going on at length,  
10       but I think that the point I'm trying to make here is,  
11       no, the studies haven't been done. I think that  
12       because of our experience, our long-term experience in  
13       north, we have a fairly good understanding of what  
14       these impacts are and the normal response is not  
15       necessarily so much to do with study as to try and take  
16       appropriate action when it's deemed necessary.

17                      MR. MARTEL: Has the problem not been  
18       though -- almost invariably in all of those cases, the  
19       problem been a lack of money, that you run up against a  
20       snag; if you want to diversify, there is no source of  
21       money available in large enough amounts to, let's say,  
22       bring a new industry to town?

23                      And would the answer not be the  
24       establishment of some type of funding in northern  
25       Ontario of a fund using existing resources that are in

1 place but earmarked ahead of time for plant closures,  
2 whether they be mines, so that in fact you could  
3 attract a new and totally different type of area there,  
4 since the infrastructures are already in place in most  
5 of those communities and you would have the funding to  
6 do it on an ongoing basis?

7 MR. CLARK: That may be a problem.

8 MR. MARTEL: As opposed to the problem  
9 now that seems to be a lack of funding and a need to go  
10 and get that.

11 MR. CLARK: I agree with you that money  
12 is often a problem in these instances, particularly  
13 when you are dealing with activities that aren't  
14 proven, and I agree that that might be a solution. I'm  
15 not sure that that's the only solution, but certainly I  
16 agree.

17 Certainly on the basis of my experience,  
18 there is always lots of alternatives, but it's normally  
19 difficult -- often difficult to find funding and, of  
20 course, I think the funding issue is very pretty  
21 complicated; it involves government funding, it  
22 involves private sector funding, and bringing all the  
23 pieces together is often quite difficult.

24 MS. BLASTORAH: Q. Another issue raised  
25 by the Board, Mr. Clark, during scoping was in relation



1 to page 53 of the written material. And, again, I  
2 don't know that it's necessary for the Board to turn to  
3 that page, but the Chairman indicated that there was an  
4 indication on that page that silvicultural jobs would  
5 be lost under alternative B due to the lack of  
6 regeneration effort.

7 And he asked how that loss of jobs  
8 translated into numbers; in other words, how many jobs  
9 are we talking about. Are you able to provide any  
10 information on that?

11 MR. CLARK: A. Yes, I am. I should say  
12 before I actually give you 'the number', that it's  
13 difficult to isolate jobs directly or indirectly  
14 associated with silviculture and there are a number of  
15 reasons for that.

16 One important one is that our databases  
17 in the Ministry are not organized to provide this  
18 information in this particular way and, in addition to  
19 that, much of the silvicultural work that is undertaken  
20 in the province is undertaken by industry or private  
21 contractors, which means that we do not necessarily  
22 have full knowledge of their labour inputs.

23 So what we have produced here is a best  
24 estimate and, of course, this was important to us in  
25 looking at alternatives at any rate.

1                   And our estimate is based primarily on an  
2                   analysis, which was undertaken during the period of  
3                   1984-89, of the employment impact of the Canada/Ontario  
4                   Forest Resource Development Agreement, which you  
5                   probably heard previously in evidence as the COFRDA  
6                   Agreement - Canada/ Ontario Forest Resource Development  
7                   Agreement - and the purpose of that analysis was to  
8                   estimate the number of jobs generated as a result of  
9                   the expenditure - I'm going to slowly on this because I  
10                  think the figures are important here - the expenditure  
11                  of \$150-million over a five-year period on a variety of  
12                  activities, most of which were related directly or  
13                  indirectly to silviculture in Ontario.

14                 And that analysis indicated that roughly  
15                 2,500 to 3,000 person years of employment were created  
16                 by that program through the expenditure -- over a  
17                 five-year period through the expenditure of that  
18                 \$150-million. So the range that we are talking about  
19                 in terms of that expenditure was 2,500 to 3,000.

20                 Now, keeping that 150-million expenditure  
21                 in mind, Ontario's expenditure on silviculture in 1988,  
22                 I think as Mr. Armson indicated, was \$158-million, and  
23                 since the production rates in the program in the COFRDA  
24                 analysis represent a sample of the Ontario  
25                 silvicultural program, we have been able to conclude

1       that approximately the same number of jobs, in the  
2       neighbourhood of 2,500 to 3,000, would be created  
3       during 1988.

4                       And I should point out that in making  
5       that assumption we looked closely at the activities  
6       that were included in the COFRDA analysis and the  
7       production rates associated with them on a comparative  
8       basis to ensure that they were in line with the kind of  
9       analysis that we would do with our information, if all  
10      of it was available to us.

11                     Q.   Mr. Clark, just a point of  
12      clarification.  You just indicated that your estimates  
13      arising from the \$158-million expenditure by Ontario  
14      would be roughly 3,000 jobs?

15                     A.   Yes.

16                     Q.   And you compared that to the earlier  
17      figure you had given of 2,500 to 3,000 man years of  
18      employment?

19                     A.   Mm-hmm.

20                     Q.   And I'm not sure --

21                     A.   Oh, I am sorry.  I meant man years.  
22      My apology, yes.

23                     Q.   Thank you.  So can I take it then  
24      both figures were intended to be man years?

25                     A.   Yes, that's correct.

1 Q. Thank you.

2 A. I should also point out that those  
3 are direct jobs, there has been no multiplier applied,  
4 and I re-emphasize again that these are our best  
5 estimate.

6 Q. And, Mr. Clark, going back to the  
7 person years issue, can we translate person years  
8 directly into jobs, the same number of person years  
9 would equal the same number of jobs; or would there be  
10 more or less people employed as a result of them?

11 A. Well, there would be more people  
12 because you are dealing, in many instances, with a very  
13 seasonal set of activities.

14 Just to perhaps refresh your memory, we  
15 are talking about things like tree planting, aerial  
16 seeding, chemical site preparation, mechanical site  
17 preparation, prescribed burns, tending, thinning and  
18 uneven-aged management. So we are dealing with  
19 activities that are relatively labour intensive in some  
20 instances and which occur on a seasonal basis.

21 Q. One final issue, Mr. Clark, this time  
22 arising from the statement of issues filed by the  
23 industry associations.

24 They asked: How do wage rates in the  
25 forest products industry compare with wage rates in the



1       tourism industry? Can you comment on that?

2                   A. Yes, and I should comment before I  
3       give you the figures, that there is no judgment being  
4       made about the appropriateness of the figures in terms  
5       of one is better than another, it's simply an attempt  
6       on our part to give you the best information we have on  
7       what the rates are.

8                   On average, on the basis of our  
9       determination, wage rates in the forest industry are  
10      three times as high as those in the tourism sector.  
11      And I should also point out that the benefits package  
12      associated with the forestry sector is far more  
13      generous and that tourism jobs are generally seasonal.

14                  Now, you may be interested in the basis  
15      for those figures because we wanted to make sure that  
16      they were a reasonably accurate portrayal of the  
17      situation.

18                  Dealing with the tourism figures, the  
19      Ministry of Tourism and Recreation indicates that the  
20      average annual salary in the tourism sector in 1988 was  
21      roughly \$11,300. Now, this information was derived  
22      from data that the Ministry of Tourism and Recreation  
23      used in their 1988 Tourism Impact Study. So this was  
24      the factor that they included in that study.

25                  And I might point out there is great

1 difficulty in getting these figures because the whole  
2 tourism activity was not one that is reported on  
3 specifically by Statistics Canada or many other  
4 agencies, so you have difficulty focusing on exactly  
5 what it is you want and, as we have pointed out, you  
6 are dealing with remote tourism on the one hand and you  
7 are dealing with tourism when it relates to hotels in  
8 Thunder Bay and so on, so there is some difficulty  
9 here.

10 But the tourism classification that was  
11 used from which this figure was derived included the  
12 following sectors: accommodation, amusement and  
13 recreation, food and beverage, auto service, retail  
14 management, and transportation. So it's dealing with  
15 the full range of service-oriented tourism activities  
16 that you would find in the area of the undertaking.

17 THE CHAIRMAN: That figure on an average  
18 is below the poverty line; isn't it?

19 MR. CLARK: Well, I think -- I wouldn't  
20 want to necessarily interpret it quite that way. In a  
21 northern Ontario context I think, if you look at much  
22 of the tourism sector, and elsewhere, you are dealing  
23 with a very seasonal type of activity, and the best  
24 example would be remote tourism where the season length  
25 is relatively short.

1                   If you look at the provincial park system  
2                   in Ontario the operating season, particularly in  
3                   northern Ontario where you are running at full  
4                   capacity, is roughly six weeks a year.

5                   If you are dealing with a tourist  
6                   operation, a remote operation, there is a spring  
7                   fishing period, the summer is quieter but still active,  
8                   and then you may have a moose hunt associated with it,  
9                   but still the actual number of months that you have  
10                  people employed is relatively limited.

11                  And I think it's important to recognize,  
12                  certainly our experience is, that many of the people  
13                  who work on a seasonal basis in the tourism industry  
14                  will have other employment opportunities as well  
15                  elsewhere possibly,, for example, in the woods  
16                  industry.

17                  On the forest industry side, you may  
18                  recall that in Panel 5 -- the witness statement for  
19                  Panel 5, Mr. Duncanson provided you with wage rates  
20                  associated with the forest industry, and I have  
21                  consulted with Mr. Duncanson - and he can correct me if  
22                  I'm wrong here - but the updated base wage rate for  
23                  pulp and paper workers for example, is roughly \$15 per  
24                  hour and that is a base wage rate and I believe that  
25                  doesn't include benefits.

1                   And that would translate into  
2           approximately \$30,000 per year, and that is the basis  
3           on which we said roughly 3:1.

4                   MS. BLASTORAH: Mr. Chairman, those are  
5           all of my questions on the first portion of the  
6           evidence dealing with Document No. 1, so perhaps this  
7           would be a convenient point to break for lunch.

8                   And I would just point out to the Board,  
9           Mr. Edwards spoke to me this morning and indicated he  
10          would have about half an hour of cross-examination on  
11          this panel which he hopes to get in this afternoon.

12                  THE CHAIRMAN: Okay. How long have you  
13          got left?

14                  MS. BLASTORAH: I believe about one hour.

15                  THE CHAIRMAN: And we have to rise by  
16          3:00 at the latest.

17                  MR. FREIDIN: Yes. Mr. Chairman, perhaps  
18          for the purposes of Document No. 2, if you could have  
19          with you the witness statement obviously, but your  
20          terms and conditions, Exhibit No. 700, the  
21          Environmental Assessment Act, and I think that is  
22          probably the only documents you will need.

23                  THE CHAIRMAN: All right. I think we  
24          will break for 45 minutes. Well, why don't we take an  
25          hour.



1 MS. BLASTORAH: I was going to say, I  
2 think we could take an hour with relative safety, Mr.  
3 Chairman.

4 THE CHAIRMAN: Okay.

5 MS. BLASTORAH: Thank you.

6 ---Luncheon recess taken at 12:05 p.m.

7 ---On resuming at 1:10 p.m.

8 THE CHAIRMAN: Thank you. Be seated.

9 MR. CASSIDY: I'm not here to finish the  
10 examination-in-chief, Mr. Chairman, but rather to  
11 discuss a proposal that has been generated through the  
12 efforts of discussions over the lunch hour with my  
13 colleagues here and friends.

14 It arises out of the discussion this  
15 morning regarding the statement of issues, but we've  
16 generated it into an idea we would like to run by you  
17 and see what you think about.

18 And, that is, in relation to the number  
19 of deadlines which have recently been set in respect of  
20 a number of a different matters in the past couple of  
21 days, it appears to us that there are a number of them  
22 and we are all going to strive diligently to meet them.

23 But when I say 'we', I'm referring to the  
24 parties present, and there was some concern that those  
25 people who do not have the benefit of being here every

1 day may get a little confused about the various  
2 deadlines and, as a result, we would like to make the  
3 following suggestion; and, that is, that the Board  
4 through its good offices, Ms. DeVaul or otherwise,  
5 generate a letter going to the full-time parties  
6 setting out the various deadlines which have recently  
7 been set.

8 I can indicate, I think fairly safely,  
9 that all of my colleagues are prepared to take some  
10 time at the end of the day today, or the end of the  
11 hearing day, and if Ms. DeVaul wants to check with us  
12 and confirm the dates that we have understood, we are  
13 certainly prepared to do that. We just have some  
14 concern that with the number there may be some  
15 confusion caused.

16 If the Board is agreeable to that, I  
17 might also request on behalf of myself - and this is a  
18 result of further discussions with Mr. Lindgren and  
19 Ms. Swenarchuk's office - that when statements of  
20 issues are sent to the OFIA/OLMA, that if they are to  
21 be faxed or sent by mail, that they be sent to my  
22 attention as the contact person.

23 As the parties list indicates, I am the  
24 contact person and it would be much appreciated and I  
25 think we could resolve any confusion in the future

1 quite easily by that.

2 So if the list were simply to say: If  
3 With all correspondence addressed or, et cetera, were  
4 to go to OFIA/OLMA to my specific attention that would  
5 take care of a number of matters.

6 The other matter I wanted to indicate in  
7 respect of statement of issues is again arising out of  
8 a discussion with Mr. Lindgren and Ms. Seaborn today,  
9 was that in the event that a party has difficulty  
10 meeting a statement of issues deadline, given the  
11 number of other matters that we have to deal with in  
12 this hearing, I certainly have no objection to them  
13 calling me and simply advising me of that fact. And  
14 subject to the Board's granting that indulgence, which  
15 I would assume if it's reasonable that would happen, it  
16 would simply enable me to tell the people who are  
17 eagerly awaiting those things for review that they  
18 might have to wait a day when the request is  
19 reasonable.

20 THE CHAIRMAN: Okay. I think all of  
21 those suggestions sound reasonable to the Board. So we  
22 will instruct Ms. DeVaul to prepare a letter, and I  
23 think it would be a good idea if she checked with  
24 counsel at the end of the day to make sure that she has  
25 the dates clear in her mind and it's the same

1 understanding that you have.

2 MR. CASSIDY: My understanding is that  
3 my friends here are prepared to wait for some period at  
4 the end of the day to do that. If Ms. DeVaul wants to  
5 come to the hearing room and meet with us, or whatever.

6 THE CHAIRMAN: Right. We'll endeavor to  
7 have her here when we rise.

8 MR. CASSIDY: Thank you. And I want to  
9 thank my friends for the suggestions.

10 THE CHAIRMAN: Okay.

11 MS. BLASTORAH: I'm not quite as tall as  
12 Mr. Cassidy.

13 One quick question, Mr. Chairman, arising  
14 out of the evidence this morning before we move on to  
15 Document No. 2. And I would like to ask Mr. Armson the  
16 following question arising out of a question from Mr.  
17 Martel.

18 Mr. Armson, during negotiations which  
19 occurred related to the softwood lumber export issue,  
20 did Ontario ever acknowledge that it subsidized the  
21 softwood lumber industry?

22 MR. ARMSON: No. And I might say, Mr.  
23 Chairman, I was very much involved in that period.

24 MS. BLASTORAH: Thank you.

25 MR. FREIDIN: Mr. Chairman, in relation



1 to Document No. 2, Mr. Bisschop will be dealing with  
2 that document. I can advise that we are not going to  
3 lead any evidence by way of repetition of that  
4 document. We think it's clear and it speaks for itself  
5 and our evidence is going to be limited only to  
6 answering questions which were raised on scoping, and  
7 there are not very many of those either, so hopefully  
8 we will be able to be brief.

9 DIRECT EXAMINATION BY MR. FREIDIN:

10 Q. If I might, in relation to a question  
11 which was asked by a number of parties, in particular  
12 NOTOA, Nishnawbe-Aski Nation and MOE, they asked for  
13 examples, Mr. Bisschop, of situations in which the  
14 Ministry may require modifications to the class  
15 environmental assessment during the term of its  
16 approval. And I would ask that you respond to that  
17 issue.

18 MR. BISSCHOP: A. Mr. Chairman, I  
19 believe the best way to respond to that question is to  
20 refer to the terms and conditions, Exhibit 700, and  
21 specifically to term and condition 59 on page 25.

22 I believe this term and condition was  
23 referred to, in part anyway, in the cross-examination  
24 of Panel 15, but I don't believe we ever introduced it,  
25 and although it is quite lengthy, I could perhaps

1 summarize it and, Mr. Chairman, as you might direct,  
2 the entire verbiage of the condition could be recorded  
3 in the transcript.

4 THE CHAIRMAN: I don't think it's  
5 necessary for you to read it in, but I think we would  
6 like the entirety of Condition 59 reproduced in the  
7 transcript for those parties who aren't here.

8 CLASS E.A. APPROVAL PERIOD & REVIEW REQUIREMENTS

9 59. Amendments to the approved undertaking during the  
10 term of this approval may be required in the  
following circumstances:

- 11 (i) correction, clarification, or improvement  
12 of the timber management planning process;  
13 (ii) correction, clarification, or improvement  
of the provisions for monitoring;  
14 (iii) extension of the approved undertaking to  
15 include additional timber management  
activities which may become regular  
16 operational practice in the future; or  
17 (iv) adjustments to the area of the undertaking.

18 Any such amendments shall be undertaken according  
to the following procedure:

- 19 (a) MNR will submit a request for an amendment  
20 to the Director of the Environmental  
Assessment Branch, Ministry of the  
21 Environment. The request will be  
accompanied by a rationale for the request,  
22 and MNR's recommendations on the form of  
review which should be undertaken.  
23 (b) The Environmental Assessment Branch,  
24 Ministry of the Environment will review  
the request and submit the results of that  
25 review to the Minister of the Environment.

1           (c)    The Minister of the Environment may  
2                    approve the requested amendment, require  
3                    a public review of the amendment, reject  
4                    the amendment, or refer the amendment to  
                  the Environmental Assessment Board for a  
                  decision."

5                   MR. BISSCHOP:  If I could briefly  
6                   summarize it then.  In effect, the response to the  
7                   question is contained in the first part of the term and  
8                   condition, items (i) to (iv) in which we indicate the  
9                   kind of circumstances in which there might be a request  
10                  for an amendment to the approval for the undertaking.

11                 And while I'm speaking to that, I would  
12                 suggest that there is a change to the condition that we  
13                 would suggest in terms of the wording.

14                 At the very beginning it currently says:  
15                 "Amendments to the approved undertaking..."  If I could  
16                 suggest the replacement wording be:  "Amendments to the  
17                 approval for the undertaking...", and our intent here  
18                 is to make it more all-encompassing to fit the  
19                 circumstances that we have described.

20                 Leaving aside the discussion of what is  
21                 the undertaking, we want to make that all-encompassing  
22                 so it addresses not only the undertaking but any terms  
23                 and conditions that might be attached to the approval.  
24                 So the wording would be:  "Amendments to the approval  
25                 for the undertaking..."

1 MR. FREIDIN: Q. I understand as well  
2 that, to be consistent, there is another housekeeping  
3 change or place where a similar comment is appropriate?

4 MR. BISSCHOP: A. That's correct.  
5 Turning to the statement of evidence, Exhibit 984 on  
6 page 120, under section No. 3, I will suggest a  
7 rewording at the end of the first sentence, go to the  
8 third line and basically scratch the words "contents of  
9 the environmental assessment document", and replace  
10 them. And the new words would be: "The approval for  
11 this undertaking, including the terms and conditions".

12 Again, it's a matter of clarification and  
13 consistency with the term and condition.

14 THE CHAIRMAN: And this, Mr. Freidin,  
15 further underlines the need to clarify what is meant by  
16 'undertaking', because when you look at your first  
17 Roman numeral under 59 you're talking about the  
18 planning process.

19 MR. FREIDIN: It will all be clarified,  
20 Mr. Chairman.

21 Q. Next, the Ontario Federation of  
22 Anglers & Hunters asked what public notice requirements  
23 are mandatory with respect to the amendment procedure.  
24 And could you perhaps comment on that question?

25 MR. BISSCHOP: A. I think, Mr. Chairman,



1 that the way to deal with this question is to turn to  
2 the Environmental Assessment Act itself first, and I'm  
3 referring to Section 17 on page 12.

4 And this section deals, as noted on the  
5 left-hand column, with the situation where a proponent  
6 proposes to change an undertaking, and the specific  
7 situation we are dealing with, of course, is to change  
8 an undertaking as described under 17(b) after there has  
9 been an approval.

10 Section 17 indicates in the circumstances  
11 contemplated by that section the usual requirements for  
12 submission of an undertaking would apply; in other  
13 words, the change would be treated as a new  
14 environmental assessment with all of the provisions of  
15 the Act applying.

16 And, in those circumstances, in terms of  
17 dealing with the question that was asked, the public  
18 notice requirements and the public opportunity to  
19 request a hearing would apply.

20 Now, in our situation with this  
21 undertaking there may be situations that arise during  
22 the term of its approval where minor amendments of the  
23 nature that we have described in term and condition  
24 59(i) through (iv), may be desired, but it becomes  
25 questionable whether the full review and approval

1 requirements of an environmental assessment ought to  
2 apply.

3 For example, we may under Item No. (i)  
4 suggest the change in the planning process that adds  
5 another opportunity for public consultation. It  
6 certainly does raise the question as to whether or not  
7 the full requirements of the Act ought to apply for  
8 that change to the approval of the undertaking.

9 So our position is that not every request  
10 for a change ought to be treated within the full  
11 context of the provisions of Section 17; rather, that  
12 there should be discretion of the Minister of the  
13 Environment to determine whether or not those full  
14 provisions ought to apply.

15 MR. FREIDIN: In fact, Mr. Chairman, we  
16 take the position that the Minister does have that  
17 discretion.

18 THE CHAIRMAN: Well, you may be correct.  
19 Unfortunately, although the amendments to this Act if  
20 they ever go forward may cover it, there doesn't appear  
21 to be, in the legislation, the same kind of provision  
22 that you find in the Consolidated Hearings Act which  
23 allows the Board to be reconstituted for the purpose of  
24 clarification.

25 There is a specific section in the CHA

1       that permits that, where the establishing authority can  
2       reconstitute the panel for the purpose of clarifying a  
3       decision, and when I notice your sub (i) here, for  
4       instance, clarifying:

5               "Correction, clarification or improvement  
6               of the planning process as affected by  
7               your amendment, amendments to the  
8               approval for the undertaking," it may  
9       well be that there may be some questions arising out of  
10      the Board's decision that require clarification, and  
11      unfortunately the legal position right now may be that  
12      this panel would be functus after delivering its  
13      decision and couldn't clarify something that needed  
14      clarification.

15              MR. FREIDIN:  Mr. Chairman, I think the  
16      word 'clarification' in the context of 59(i) was where,  
17      through practice or experience, something was unclear  
18      in the process as set out in a term and condition you  
19      wanted to change that.  That is the sort of thing where  
20      we would actually be suggesting ourselves that  
21      something be changed.

22              I think the context in which you are  
23      speaking of clarification is the ability to come back  
24      to the Court or the Board and ask for clarification as  
25      to what you meant by your reasons so as you could then

1 take further action, and I agree with you. I think  
2 that issue is in the air.

3 I think that any submissions regarding  
4 whether this Board is functus in terms of its ability  
5 to clarify matters after its decision is a matter that  
6 is best left to the end of the hearing.

7 THE CHAIRMAN: Right.

8 MR. BISSCHOP: If I could return to term  
9 and condition 59 then. Going on to page 26, items (a),  
10 (b) and (c).

11 Given the potential circumstances in  
12 which an amendment might be requested: Section (a)  
13 outlines what the Ministry of Natural Resources will do  
14 to request such an amendment; Section (b) outlines  
15 what the Environmental Assessment Branch of the  
16 Ministry of the Environment will be in response to such  
17 a question; and then Section (c) outlines the range of  
18 options available to the Minister of the Environment in  
19 terms of dealing with such a request.

20 We had discussions with the Ministry of  
21 the Environment about the matter of the full  
22 application of the requirements of Section 17, and the  
23 approach that we believe is a common approach between  
24 the two ministries is that, should the Ministry of the  
25 Environment look favourably upon an MNR request, they



1 would issue a public notice of their intent to approve  
2 the requested amendment so that there is public notice  
3 of that potential change and await response to that.

4 That would be, in effect, doing part of  
5 the full notice requirements of an environmental  
6 assessment.

7 MR. FREIDIN: Mr. Chairman, the specific  
8 wording of such a provision has not been worked out  
9 with the Ministry of the Environment, but it will  
10 hopefully -- I'm sure we will be able to do that and it  
11 will be included in the final terms and conditions that  
12 we submit by way of draft.

13 Q. Now, during the scoping session, Mr.  
14 Bisschop, the Board asked how the amendment procedure  
15 for changing the undertaking or the terms and  
16 conditions of approval fit into the amending procedure  
17 in individual timber mangement plans. I believe that  
18 was a matter raised by the Chairman.

19 My notes indicate that the Chairman asked  
20 whether, by amending a series of timber mangement  
21 plans, could the result be an avoidance of amending the  
22 Class EA. He asked, and I've attempted to reproduce  
23 his comments accurately:

24 "Where is the cut-off point as to when so  
25 many amendments in a given situation

1                   occur that the Class EA..." or I may add  
2           the words: 'the approval for the undertaking' should be  
3           amended?

4                   And I would ask you to address that  
5           question for the Chairman.

6                   MR. BISSCHOP: A. Mr. Chairman, I must  
7           admit we did have some difficulty trying to fully  
8           understand the situation, but I think we can respond to  
9           it.

10                   We can't contemplate a situation at which  
11           there is this cut-off point that you speak to. We  
12           believe that we have structured the planning process  
13           and the timber management plan amendment process  
14           adequately; in other words, we don't anticipate that  
15           there would be frequent amendments of a particular kind  
16           that would fall into this kind of a problem.

17                   Obviously amendments to plans take a lot  
18           of time and effort and it would be to the Ministry's  
19           advantage to avoid amendments as much as possible by  
20           having a common procedure that applies, and that is  
21           what we tried to structure in our amendment planning  
22           procedure for timber mangement plans.

23                   However, we will, of course, on a regular  
24           basis be monitoring amendments to plans through our  
25           normal provisions of reviewing plans and reviewing

1 amendments to plans and committees that we have  
2 established in the Ministry of Natural Resources that  
3 deal with timber mangement planning, and if a concern  
4 arose that there were numerous amendments of the same  
5 kind, we would seek to address that problem through the  
6 provisions of term and condition 59.

7 THE CHAIRMAN: You would also be able to  
8 address it to some extent through 62; wouldn't you, in  
9 the sense that at the end of the five years, in 61 --

10 MR. BISSCHOP: That was going to be my  
11 next point.

12 THE CHAIRMAN: Okay.

13 MR. BISSCHOP: If it became a problem  
14 early on during the term of the approval we would try  
15 to address it in term. We would also be in a position  
16 at the end of the six years of the approval to deal  
17 with that kind of a problem through basically the  
18 provisions of term and condition 61(e).

19 And, again, we haven't introduced term  
20 and condition 61 yet, but it deals with the review that  
21 the Ministry of Natural Resources will conduct in year  
22 five of the approval and the recommendations that will  
23 be submitted to the Ministry of the Environment and  
24 what the material that accompanies those  
25 recommendations will include, and that subject would be

1 addressed under 61(e).

2 THE CHAIRMAN: Right. The only question  
3 the Board has, now that you are into 61, is: Why  
4 should it not be the Ministry of the Environment that  
5 conducts that review as opposed to the Ministry of  
6 Natural Resources?

7 MR. BISSCHOP: There is no question that  
8 the Ministry of Environment gets involved.

9 THE CHAIRMAN: Well, they get involved  
10 responding to your recommendations as opposed to them  
11 conducting the review, and I'm thinking particularly  
12 about the area of compliance. It's sort of like  
13 letting the - what is it - the rooster in the henhouse,  
14 or whatever.

15 MR. FREIDIN: Mr. Martel has a good one  
16 but I don't think he wants to repeat it; does he?

17 THE CHAIRMAN: Anyway, I think you get  
18 the drift. You are the ones that are charged with  
19 compliance and you are reviewing your success at  
20 compliance.

21 MR. BISSCHOP: I think my response to  
22 that, Mr. Chairman, would be, however, that the  
23 Ministry of Natural Resources requires the new  
24 approval, the extension of the approval, if you will,  
25 and we would -- if we recommended that the same



1 approval be extended or that there would be changes to  
2 the approval, we would want to have some basis for  
3 that, and that is the subject of term and condition 61.

4 This is all of the information that we  
5 will produce in support of whatever recommendation we  
6 make to gain a continued or new approval under the  
7 Environmental Assessment Act for the undertaking. We  
8 require the approval.

9 MR. FREIDIN: And it's within the  
10 Ministry's knowledge -- all of those matters are  
11 peculiarly within the Ministry's knowledge, in  
12 particular when you get down to things like the State  
13 of the Forest Report and progress in terms of the  
14 studies that the Ministry is doing. So that is part of  
15 the rationale as well.

16 THE CHAIRMAN: Okay. But is that report  
17 going to deal with compliance as well, your review, the  
18 Ministry of Natural Resources' review?

19 MR. FREIDIN: I would have to look. I'm  
20 not familiar with all of the evidence in Panel 16, but  
21 in terms of the State of the Forest Report described in  
22 55 I don't believe it has - let me look - it doesn't  
23 have any information in there in relation to -- if you  
24 are talking about -- when you say compliance,  
25 compliance monitoring; is that what you are referring

1 to?

2 THE CHAIRMAN: Compliance monitoring, but  
3 also compliance with the conditions themselves.

4 You see, I think what concerns the Board,  
5 or at least it's a question being raised by the Board,  
6 is the fact that at the end of the six years presumably  
7 the approval lapses. The approval is for a period of  
8 time, a term of six years, and if it's to be renewed  
9 without a further environmental assessment, like  
10 without a further hearing, it's going to be reviewed on  
11 the basis -- sorry, renewed on the basis of the  
12 Ministry of the Environment deciding that it should be  
13 extended.

14 And I take it, Ms. Seaborn, the Minister  
15 has the authority to do that, he doesn't have to refer  
16 it for a second hearing.

17 MS. SEABORN: That is correct, Mr.  
18 Chairman.

19 With respect to your first comment, I  
20 believe you've mentioned this before earlier in the  
21 hearing, the concept of the Ministry of the Environment  
22 preparing some sort of report.

23 I can advise you that right now it's  
24 something that is the subject of discussion with my  
25 clients and we may have a proposal of some sort in that

1        regard and the statement of our draft terms and  
2        conditions for consideration by other parties as well.

3                    MR. FREIDIN:  Mr. Chairman, if I just  
4        might, I think that I might be able to clarify this by  
5        making the point that the Ministry of the Environment  
6        has enforcement responsibilities and I would assume  
7        that they will exercise their enforcement powers as  
8        they see fit, and prosecutions under the Environmental  
9        Assessment Act are things which can happen in term and  
10       the Ministry of the Environment would be aware of  
11       breaches through that mechanism, and when applications  
12       are made by the Ministry of Natural Resources for  
13       extension, that is information which would obviously be  
14       privy -- the Ministry of Environment would be privy to  
15       and that would be taken into account by the Minister of  
16       the Environment in terms of his decision as to the  
17       extension, and also any additional terms and conditions  
18       he might want to impose on any such extension, so...

19                   THE CHAIRMAN:  Okay.  I understand what  
20        you are saying and I'm not suggesting for a minute,  
21        Mr. Freidin, that that isn't the case.  It's just that  
22        when you are looking to the situation where this  
23        environmental assessment approval might be extended,  
24        particularly in the case where there will not be  
25        another hearing - I'm not saying there won't be - but

1       when you bear in mind that the first hearing may well  
2       take three or four years, then you get an approval for  
3       a six-year period, if that is the case if an approval  
4       issues, there may not be the desire to go through a  
5       further four-year hearing, you know, if an extension is  
6       required.

7                       And I think the Board's concern is, is  
8       that the credibility vis-a-vis the government and the  
9       public might be better maintained, if I can put it that  
10      way, where the review of the environmental assessment  
11      and how it's performed, the approval, how the  
12      undertaking has performed in light of the approval and  
13      conditions of approval, et cetera, if an approval  
14      issues, could be better understood if it weren't  
15      conducted necessarily by the very ministry that  
16      obtained the approval and is carrying out the  
17      activities; in other words, an objective look.

18                     That is the only sort of basis for my  
19      comments.

20                     MR. FREIDIN: Well, Mr. Chairman, I think  
21      the position of the Ministry is that it is the  
22      proponent, that it is seeking the extension, and just  
23      as it has to put forward evidence to convince the  
24      Minister, and in this case the Board that it should  
25      have approval to proceed, then it must submit the



1 material --

2 THE CHAIRMAN: Well, I'm not suggesting  
3 it shouldn't review it; I'm suggesting maybe there  
4 should be an additional review by the Ministry of the  
5 Environment.

6 MR. FREIDIN: Well, in my submission, Mr.  
7 Chairman, that is a matter of discretion for the  
8 Ministry of the Environment, just as it is our view  
9 that on bump-up requests it is a matter of discussion  
10 for the Minister of the Environment as to the criteria  
11 that he wants to consider in determining whether to  
12 grant such requests.

13 In my respectful submission, that is a  
14 matter which should be left solely to that Minister's  
15 discretion and not be the subject matter of a term and  
16 condition.

17 THE CHAIRMAN: Well, maybe the Ministry  
18 of the Environment nevertheless in this hearing may  
19 want to address it.

20 MS. SEABORN: That is correct, Mr.  
21 Chairman, and it is something that we may wish to  
22 discuss through terms and conditions or otherwise in  
23 front of the Board.

24 MR. FREIDIN: I assume it's clear to  
25 everybody, Mr. Chairman, that it is not the Ministry of

1 Natural Resources that is making the decision regarding  
2 the extension, it is the Minister of the Environment.

3 THE CHAIRMAN: Oh, yes. No, no, that is  
4 totally clear in your evidence.

5 MR. FREIDIN: Okay. So we can move on to  
6 another question. And by the way, Mr. Chairman, I  
7 should advise you now, quite irrespective of the  
8 decision of the Board, if there is another hearing we  
9 may be asking that the same panel be put together.

10 THE CHAIRMAN: And if you would like us  
11 to render a decision on that right now, I think we can  
12 probably do that.

13 MR. CASSIDY: Let the record show that  
14 Mr. Martel is shaking his head in a negative fashion.

15 MR. FREIDIN: As opposed to...

16 Q. Next question, Mr. Bisschop: What  
17 process, Mr. Bisschop, if any, is contemplated if the  
18 undertaking of timber mangement is extended or changed  
19 to include an area presently not within the area of the  
20 undertaking? And by that I mean that the undertaking  
21 is extended to an area which is presently not part of  
22 Crown land within a forest management unit.

23 MR. BISSCHOP: A. Again, Mr. Chairman,  
24 we would turn to term and condition 59 in which we very  
25 clearly set out in Item No. (iv) that amendments to the

1 approval for the undertaking may be requested to deal  
2 with adjustments to the area of the undertaking, and  
3 the remainder of the term and condition very clearly  
4 sets out the process that would apply.

5 The Ministry of Natural Resources would  
6 make a request, the Ministry of the Environment's  
7 Environmental Assessment Branch would review that  
8 request and make recommendations to the Minister who  
9 would make a decision from among the options set out in  
10 Item (c) of term and condition 59.

11 Q. Mr. Bisschop, and do you believe that  
12 that is a reasonable way to deal with that subject  
13 matter?

14 A. We believe it is, Mr. Chairman, in  
15 the sense that the undertaking of timber management,  
16 whether it's north of that line or south of that line,  
17 would be conducted in a similar way and the process  
18 that we put before the Board to plan operations and  
19 carry out the implementation of operations in the area  
20 south of the line is equally applicable in the area --  
21 to the area north of the line.

22 Q. And what about notice of such  
23 requests that an extension of the area was being  
24 requested; would there be any notice of such an event?

25 A. Again, I refer back to my earlier

1        comments when we were talking about condition 59 in  
2        general; that there would always be some form of public  
3        notice.

4                        If the Ministry of the Environment  
5        decided that it would approve the requested amendment  
6        without the full provisions of the Act applying as  
7        Section 17 contemplates, there would be a notice issued  
8        by the Ministry of Environment as we have agreed  
9        between the ministries.

10                      THE CHAIRMAN: There would have to be an  
11        exemption from the Act; wouldn't there?

12                      MR. BISSCHOP: No, we would be seeking an  
13        extension to this approval to apply to additional  
14        geography.

15                      THE CHAIRMAN: Yes, but if you read 17  
16        where you are proposing to make a change in the  
17        undertaking, and presumably that would include a change  
18        to the area of the undertaking, the Act applies to the  
19        proposal to make the change as if it were a new  
20        proposal; therefore, you are subject to the Act.

21                      MR. FREIDIN: Mr. Chairman, as we have  
22        indicated, not all amendments will fall within Section  
23        17. If a request - and I think I can make this  
24        submission as evidence because I think it's a legal  
25        matter as well - if the request for the amendment is



1 deemed by the Minister under Section 17 to be -- or  
2 deemed by the Minister to be an amendment or change of  
3 the type contemplated by Section 17, then the  
4 provisions of Section 17 would apply.

5           You either have a complete environmental  
6 assessment application or an application of the entire  
7 Act which you might, you are correct, want to deal with  
8 by requesting an exemption; however, the request for  
9 the amendment in relation to the area might not be  
10 deemed to fall within Section 17, and in that  
11 situation --

12           THE CHAIRMAN: Well, why wouldn't it be?  
13 The reason I'm asking is, is because it wouldn't  
14 conform with the terms and conditions imposed because  
15 the terms and conditions imposed would apply to the  
16 area of the undertaking.

17           If this were some area outside the area  
18 of the undertaking, then presumably it would not  
19 conform to any term or condition imposed upon the  
20 approval to proceed.

21           MR. FREIDIN: Mr. Chairman, the response  
22 to that would be that the term and condition -- or  
23 there would be a term and condition which we are  
24 discussing, which is 59 -- in this case, yes, 59(iv) --

25           THE CHAIRMAN: All right.

1 MR. FREIDIN: That the term and condition  
2 itself--

3 THE CHAIRMAN: Allows...

4 MR. FREIDIN: --allows an extension of  
5 the area in the circumstances set out, and if the  
6 procedure set out therein are followed.

7 So to continue with my submission, if the  
8 Minister does not believe that the request for an  
9 amendment - and I'm not trying to second guess here,  
10 but let's say it's a hundred hectares, just as an  
11 example, and not the whole province north of 50 - he  
12 might decide in his discretion that it's not the type  
13 of amendment contemplated by 17; that it fell within  
14 the type of amendment, therefore, which is contemplated  
15 by 59, and we would deal with it in that fashion.

16 THE CHAIRMAN: Okay. I haven't really  
17 thought this through and its full ramifications, Mr.  
18 Freidin, but I just throw out: Can you contract out of  
19 the section, can you in effect put forward a condition  
20 of approval that takes you out of 17(b)?

21 MR. FREIDIN: In my submission, we would  
22 not be doing so, and I understand the issue, and it may  
23 become a matter of argument at the end, and perhaps  
24 characterizing the question a little differently --

25 THE CHAIRMAN: I'm not saying that the

1 Minister under the Act doesn't have the ultimate  
2 discretion anyways, I'm just saying I'm not sure you  
3 can put forward a condition of approval that gives the  
4 Minister the discretion as a result of complying with  
5 the condition which applies to an area beyond the area  
6 of the undertaking.

7 MR. FREIDIN: Well, I'm not too sure we  
8 are suggesting that. I think we are saying that the  
9 Minister of the Environment is going to do what is  
10 legally correct based on the advice that he receives,  
11 and if based on the fact situation before him or her  
12 the situation is such that, from a legal interpretation  
13 point of view it falls within Section 17, then he or  
14 she will have no choice but to regard it as such.

15 THE CHAIRMAN: And exempt it if he wanted  
16 to arrive at the same position that he would have under  
17 this condition?

18 MR. FREIDIN: That's right. But if in  
19 fact it does not fall within that, based on the legal  
20 advice received, then I'm submitting that one then goes  
21 to term and condition 59.

22 And so what I'm saying as well that in  
23 law the mere extension of the area of the undertaking  
24 from that which it is at the present time is not  
25 necessarily, as a matter of law, a situation which

1 falls within Section 17.

2 THE CHAIRMAN: Okay. I'm not, you know,  
3 giving an opinion whether it would be or wouldn't be, I  
4 just would check that condition with the provision of  
5 17(b) and see whether or not the terms and conditions  
6 can apply to areas outside of the undertaking; and, if  
7 not, then I think you are caught by 17(b) and you may  
8 find that the Minister is forced to exercise his  
9 discretion through the exemption procedure rather than  
10 through the implementation of 59.

11 MR. FREIDIN: Yes, Mr. Chairman. And I  
12 should perhaps just indicate to you that the  
13 Environmental Assessment Document, in terms of you  
14 saying extending the area of the undertaking, whether  
15 it applies to what it is now, that on page 11 of  
16 Exhibit 4, which is the Environmental Assessment  
17 Document, where it does refer to the area of the  
18 undertaking, it says, and I just quote:

19 "In the future, the undertaking may  
20 also occur on any other Crown lands in  
21 Ontario which may be added to the area of  
22 designated forest management units  
23 depicted on Figure 3.2.1"

24 So the Environmental Assessment Document  
25 is not silent on this matter. It is in fact defining,



1 I guess I'm saying, the area of the undertaking as the  
2 area which is presently management units and any area  
3 which may become management units.

4 Now, whether in law that makes a  
5 difference or not, is a matter which I think we will  
6 have to address at the end of the hearing.

7 THE CHAIRMAN: Okay. Anyway, I think we  
8 have spent enough time on that.

9 MR. FREIDIN: Q. Now, Mr. Bisschop, are  
10 there any other reasons --

11 THE CHAIRMAN: Excuse us just a moment.

12 MR. FREIDIN: Sorry.

13 ---Discussion off the record

14 THE CHAIRMAN: You see, Mr. Freidin, the  
15 reason why we are raising some of this is because, as  
16 you know, Mr. Hunter has raised this issue about what  
17 may happen north of 50, and with a lack of evidence in  
18 terms of what is going on north of 50 in terms of if it  
19 were extended, what impacts would be visited north of  
20 50 as a result of the timber management activities  
21 being carried out and the planning procedures being  
22 carried out north of 50, it gives the appearance of  
23 trying to get in through the back door on the back of  
24 an approval for south of 50 without giving people an  
25 opportunity who live north of 50 for making the

1 appropriate representations.

2 And, of course, we don't want to spend  
3 years here listening to evidence about north of 50 if  
4 it isn't the present intention of the Ministry to  
5 manage north of 50. I mean, it doesn't make sense.

6 MR. FREIDIN: I think, Mr. Chairman, that  
7 Mr. Bisschop can address that, because we submit that  
8 the proposal that we are putting forward will not work  
9 an injustice to people north of 50 or be  
10 piggy-backing - those weren't your words - but  
11 piggy-backing on some other approval, No. 1 for the  
12 reasons that Mr. Bisschop has already given, but I  
13 think there is an additional reason that he would like  
14 to address which perhaps will more directly address the  
15 matter you just raised.

16 MR. BISSCHOP: Mr. Chairman, assuming  
17 that the Minister of Environment has discretion related  
18 to 17, we have indicated earlier that at the very least  
19 there will be a public notice issued advising of his  
20 intent to approve a requested amendment. That notice  
21 would provide the opportunity for response from the  
22 people north of 50 to the Ministry of the Environment  
23 about whether or not that requested amendment ought to  
24 be approved.

25 Even if he still does approve the

1 amendment, despite whatever submissions are made to  
2 him, there would be additional opportunities for public  
3 notice and involvement in decision-making about timber  
4 management operations through all of the provisions of  
5 the timber management planning process which would  
6 apply; and, therefore, all of the concerns that might  
7 be raised could be addressed during timber management  
8 planning itself, if that was the ultimate course of  
9 action for addressing those concerns.

10 MRS. KOVEN: But the main concern that  
11 would be raised, Mr. Bisschop, is the fact that the  
12 people outside of this process now will be faced with  
13 an entrenched system to which they were not party, they  
14 had no input at all into how that was formulated, so  
15 the kinds of concerns they would have, I would think,  
16 would be very small compared to their ability to  
17 influence what this thing looked like before it reached  
18 them.

19 MR. BISSCHOP: Mr. Freidin may want to  
20 speak to this, but in my personal view those people  
21 have the opportunity through the involvement of  
22 Nishnawbe-Aski Nation in the course of these hearings.  
23 We have indicated in the Class Environmental --

24 MRS. KOVEN: Well, as far as the Board is  
25 concerned though, we have no idea who would be a party

1 north of 50. We have no idea at all.

2 MR. FREIDIN: Mr. Chairman. If I might  
3 address that, Ms. Koven. The fact that there may be  
4 people north of 50, if that is where the area would be  
5 extended to --

6 MRS. KOVEN: And since you are talking  
7 about that area, is there any other place in the  
8 province where this extension --

9 MR. FREIDIN: Well, I suppose it could be  
10 moved south. I mean, it's just that we keep talking  
11 about north of 50 because it's Mr. Hunter's concern.  
12 It could be moved anywhere.

13 The fact that people outside the area of  
14 the undertaking may not have come here and had input --  
15 direct input, two responses: No. 1, the Environmental  
16 Assessment Document indicates that we are proposing  
17 that this process and that these activities could take  
18 place in an area outside, but more importantly -- that  
19 is a legal argument.

20 More importantly, if someone in an area  
21 north of 50 didn't want an amendment to be made where  
22 the area of the undertaking was going to be extended  
23 into that area and the Minister of the Environment  
24 decided in his discretion that the request was not one  
25 which fell within Section 17, then it is open to the



1 people who are concerned, when they receive notice from  
2 the Minister of the Environment about a potential  
3 approval to an amendment which is going to extend the  
4 area, to look at term and condition 59, to come forward  
5 to the Minister of the Environment, to say to the  
6 Minister of the Environment: We think you should  
7 require a public review or you should refer the matter  
8 to the Board for a decision.

9 And in terms of the process which gets  
10 imposed in terms and conditions in this hearing: two  
11 responses: Let's say it was extended to the whole  
12 area, the rest of the province north of 50, if there is  
13 something generically different about that area and the  
14 people in that area, if someone wanted to come forward  
15 and say this approval and, in particular these terms  
16 and conditions, do not satisfy or address the concerns  
17 we have, in my submission, they could make whatever  
18 submissions they wanted to as to how those terms and  
19 conditions should be amended, changed, revoked or added  
20 to as a condition of the Minister of the Environment  
21 granting the amendment to extend the area of the  
22 undertaking.

23 I would suggest it would be my belief,  
24 based on the evidence we have heard here -- well,  
25 assuming that there was no such generic thing, but the

1 concern was one of a local nature, that in some area  
2 north of 50 there was a particular or peculiar  
3 situation which people were concerned about, in that  
4 situation it is my submission that the process being  
5 put forward by the Ministry is one which is designed to  
6 accommodate such local, peculiar situations.

7 And if the amendment went through with  
8 the process as it's being put forward by the ministry  
9 and the area was extended and somebody was not  
10 satisfied with the way their peculiar situation was  
11 being dealt with, they would have all the protections  
12 which are in the process which we are asking, or  
13 indicating would be reasonable, including the  
14 opportunity to go to the Minister of the Environment,  
15 request a bump-up and everything that is associated  
16 with that.

17 Now, I don't know whether that addresses  
18 your question completely, but that is the thinking that  
19 has gone behind the drafting of term and condition 59  
20 and is the thinking which, in our submission, makes it  
21 a reasonable way of dealing with the situation.

22 And also a way of avoiding the potential  
23 possibility of having to go through this hearing again,  
24 even though it is the position of the Ministry of  
25 Natural Resources that the activities of timber

1 management are a set of activities which have common  
2 features which are carried out in similar ways and all  
3 of the other things which are in our Environmental  
4 Assessment Document which, in our view, justifies this  
5 matter being dealt with in the way it is.

6 THE CHAIRMAN: All right. But, if --

7 MRS. KOVEN: Maybe we will have to go  
8 through a hearing like this every six years, I have no  
9 idea, but I'm saying that conceptually it's difficult  
10 because -- well...

11 Because, first of all, I don't think I'm  
12 going to be hearing any evidence about this other than  
13 through the legal aspect of how an extension may be  
14 made; and, secondly, when you look at something like a  
15 landfill site for example, when you are looking at a  
16 facility versus a class EA, you get very nervous  
17 talking about extensions of approvals, and each new  
18 facility or each new aspect of an operation requires a  
19 separate approval, whether the situation is exactly the  
20 same or not.

21 My concern is not so much that you have  
22 recommended this section; my concern is that I just  
23 have absolutely no sense of where it will apply or how  
24 large an undertaking it would be or anything.

25 MR. FREIDIN: And I would just respond

1       that I understand and I think the thing is: Would  
2       there be adequate protection built into whatever system  
3       is designed in terms of protecting environment?

4               THE CHAIRMAN: Well, what would happen,  
5       Mr. Freidin, if the Board in giving an approval refused  
6       to approve 59(iv)?

7               In other words, if the approval were  
8       limited only to the area of the undertaking, would not  
9       that mean effectively that any attempt to extend the  
10      approval beyond the area of the undertaking would cast  
11      you under the Act, in effect, for a new application  
12      which the Minister of the Environment could then say to  
13      himself, if he wanted to: The circumstances are  
14      generically roughly the same; and, therefore, I don't  
15      feel a new hearing is warranted and I feel - talking of  
16      the Minister - that the circumstances under which this  
17      Board granted its approval, based on the evidence it  
18      heard for the areas within the area of the undertaking,  
19      are essentially the same, and would then exempt the  
20      extension beyond the area of the undertaking from the  
21      provisions of the Act; no further hearing would be  
22      necessary, and he would just approve the application  
23      for the extension and perhaps annex the same conditions  
24      of approval that were required in this hearing.

25              MR. FREIDIN: I think that is a possible



1 way or ramification of doing what you are suggesting.

2 THE CHAIRMAN: Because what you are  
3 saying there is, it's still in the discretion of the  
4 Minister of the Environment as to whether or not there  
5 is going to be a new EA required, a hearing required or  
6 anything required. The differences is, is that you are  
7 then forcing the Minister of the Environment  
8 effectively to have to address it under the Act, and if  
9 he wants to give an exemption under the Act, he may  
10 have to go through the procedure regarding exemptions  
11 under the Act which, under the present practice,  
12 involves EAAC referrals, possibility of hearings, EAAC  
13 recommendations and that whole business.

14 MR. FREIDIN: Well, as a legal matter  
15 that may be the result of not having that particular  
16 provision there, and I say 'may', because I would want  
17 to consider the legal -- and a little bit more consider  
18 the opinion as to the legal implications as to whether  
19 you are correct.

20 However, before I leave it, I would just  
21 indicate -- well, I have indicated why we think it's  
22 reasonable and we will be urging upon the Board that it  
23 is a reasonable thing in procedure.

24 THE CHAIRMAN: Okay. Well, that is your  
25 position, and we would suggest that other parties, if

1       they have contrary positions, can put them forward at  
2       the appropriate time.

3                   MR. FREIDIN:   Yes.

4                   MR. MARTEL:   Well, can I raise a matter  
5       then, because I want to forget the legal side of it for  
6       the time being. I think the problem Mrs. Koven raised  
7       for us is that we don't know what the conditions are  
8       like north of 50; in other words, what is being  
9       presented here to us for the area between 50 and the  
10      southern perimeter of this hearing, the conditions are  
11      the same? My understanding is they are not.

12                   When we went to Kapuskasing on a site  
13      visit we found that a knoll was two feet high and that  
14      was highland. I mean, nothing -- or we have received  
15      very little here which would satisfy me that the  
16      conditions that are north of 50 are in the same boat,  
17      if I can use that term, and why should approval be  
18      granted there?

19                   MR. FREIDIN:   Mr. Chairman -- I mean, Mr.  
20      Martel, let me answer you this way. If someone submits  
21      an environmental assessment to the Minister of the  
22      Environment, the public of this province must rely on  
23      the discretion of the Minister of the Environment to  
24      make sure that no approval gets issued unless it's  
25      reasonable.

1                   MR. MARTEL: But we are being asked to  
2 approve a condition and we haven't had -- and if we  
3 give approval to it, then you can proceed via that  
4 route and we haven't heard the evidence of what occurs  
5 up beyond 50.

6                   MR. FREIDIN: But the Minister of the  
7 Environment has referred this matter to this Board to  
8 hear.

9                   MR. MARTEL: Right.

10                  MR. FREIDIN: Now, the Minister of the  
11 Environment didn't have to do that, but he did. Now,  
12 under the procedure under Section 59, the decision as  
13 to whether there should be a hearing or not is going to  
14 be made by the Minister of the Environment and so if  
15 the system puts the discretion within the Minister of  
16 the Environment in one situation, then all we are doing  
17 here is putting the discretion in the hands of the  
18 Minister of the Environment in this case again, the --  
19 well...

20                  MR. MARTEL: Could I just point out the  
21 difficulty, because, you see, there are some people who  
22 are concerned, they see it in terms of waiting for the  
23 other shoe to fall to include them and they have a  
24 worry about it.

25                   We are going to make approvals on

1 material which will allow the Ministry to move in such  
2 a way and we haven't even looked at factors up there,  
3 and yet we are saying: Go ahead, we will approve this  
4 and you can do it.

5 MR. FREIDIN: All right. As a legal  
6 matter, the discretion to the Minister of the  
7 Environment, when an environmental assessment is  
8 submitted to him, to say there will be no hearing, may  
9 be different --

10 THE CHAIRMAN: Just a second.

11 MR. FREIDIN: May I finish?

12 THE CHAIRMAN: No, in a minute, but you  
13 are misquoting it in the sense, when an environmental  
14 assessment is submitted. We are talking about here not  
15 for an environmental assessment, but for a request for  
16 an extension. It may not contain an assessment.

17 MR. FREIDIN: But what you are  
18 suggesting, Mr. Chairman --

19 THE CHAIRMAN: See, that is the thing.  
20 If you go back to 17, that is not as much of a problem  
21 because that says, in effect, the Act applies and that,  
22 in effect, says that you have to submit an assessment;  
23 and then the Minister gets the discretion to be looking  
24 at the assessment to say: We don't need a hearing, or:  
25 I'm satisfied, based on the assessment, that I can



1 grant an approval subject to conditions without the  
2 necessity of a hearing.

3 What you are asking for here is, we have  
4 looked at an assessment south of 50 for the lands  
5 within the area of the undertaking, we have reviewed  
6 it, we have given an approval with conditions, and now  
7 you are asking for an amendment to include areas that  
8 go beyond the matters assessed and giving the Minister  
9 the discretion to say: I won't even require an  
10 assessment, I will just extend area of the undertaking.

11 MR. FREIDIN: Mr. Chairman, can I --

12 THE CHAIRMAN: That concerns the Board.

13 MR. FREIDIN: All right. I want to  
14 address the concern, but I don't want to, I think,  
15 spend a lot of time making legal submissions here and  
16 my friends are probably just going crazy over there. I  
17 really think our position is there: I think this is  
18 really a matter of legal argument.

19 THE CHAIRMAN: Okay. But I can tell you  
20 this is an area, just for everyone's elucidation, it  
21 concerns the Board and it will be the subject of legal  
22 argument at some stage.

23 MR. FREIDIN: All right. And I just  
24 think that we should probably move on with more  
25 evidence and less legal argument.

1 THE CHAIRMAN: All right.

2 MR. FREIDIN: As much as I like --

3 THE CHAIRMAN: And you thought you would  
4 get away with an hour, right?

5 MR. FREIDIN: Well, I was going to say  
6 something about this one section, but...

7 Q. All right. Let's see how quickly we  
8 can move, Mr. Bisschop. The Ontario forest industry  
9 association OLMA as well asked why seeking approval for  
10 the undertaking -- or why you were seeking approval for  
11 a six-year period? And I guess an associated question  
12 was: Why was there a requirement for a review to be  
13 conducted during the fifth year?

14 MR. BISSCHOP: A. Mr. Chairman, as we  
15 have indicated, I believe it was in Panel 15, the way  
16 we apply the planning process to all management units  
17 in the province involves a five-year cycle, so that  
18 forms a basis for our position on why the term of the  
19 approval ought to be at least five years so that we  
20 could complete a cycle of plans.

21 We have indicated that in the fifth year  
22 we would conduct the review, and that leaves the sixth  
23 year in which the submission of the review can be  
24 considered by the Minister of the Environment and a  
25 decision can be made by the end of the sixth year.

1                   We think that is a reasonable way to deal  
2                   with this. I think, as you are probably also well  
3                   aware, any Class Environmental Assessment that has been  
4                   approved in the province to date has been approved for,  
5                   I believe, consistently a five-year term.

6                   Q. Now, OFAH asked what the scope of the  
7                   enquiry in the fifth year would be in that fifth year  
8                   review, and they asked specifically: What scope of  
9                   review is expected in the sixth year compared to the  
10                  current enquiry? That was the way they put the  
11                  question?

12                  A. Mr. Chairman, in term and condition  
13                  61 - which, again, I would suggest be copied into the  
14                  transcript - I won't read it - we deal with the subject  
15                  matters of the review itself, which the Ministry of  
16                  Natural Resources will produce and submit to the  
17                  Minister of the Environment.

18

19                  CLASS E.A. APPROVAL PERIOD & REVIEW REQUIREMENTS

20                  61. During the fifth year of this approval, MNR shall  
21                  undertake a review of this Class Environmental  
22                  Assessment and submit that review to the Minister  
23                  of the Environment. The review shall make  
24                  recommendations regarding an extension of the  
25                  approval on the basis of supporting information  
26                  which shall consist of:

27                  a) a complete record of all amendments to the  
28                  approved Class Environmental Assessment during  
29                  the term of this approval;

- 1
- 2           b) a complete record of all "bump-up" requests,
- 3           and their disposition, during the term of this
- 4           approval;
- 5           c) the five-year "State of the Forest" report,
- 6           which is described in Condition #55;
- 7           d) progress reports on the studies and programs
- 8           which are described in Conditions #43, 48, 51,
- 9           52, 57 and 58; and
- 10          e) any additional documentation which MNR
- 11          considers to be appropriate or necessary to
- 12          support its recommendations for an extension
- 13          of the approval of the undertaking.

14                   MR. BISSCHOP: So that is an indication  
15 of what MNR will do in that review.

16                   If you turn to page 122 and 123 of  
17 Exhibit 984, which is the statement of evidence for  
18 Panel 17, the last two pages, on page 122 beginning at  
19 the paragraph about two thirds of the way down the  
20 page, there is a paragraph that indicates what the  
21 Ministry of the Environment will do with that review,  
22 and continuing on, page 122 to 123, there is an  
23 indication of the options again available to the  
24 Minister of the Environment in terms of decision-making  
25 on extending the approval.

26                   MR. FREIDIN: And, Mr. Chairman, perhaps  
27 we could have term and condition 60 read into the  
28 record as well which deals with the matter of six-year  
29 review, and I think that would then deal with all of



1 the terms and conditions dealing with class EA approval  
2 period and review requirements.

3 THE CHAIRMAN: Very well.

4 CLASS E.A. APPROVAL PERIOD & REVIEW REQUIREMENTS

5 60. This approval shall remain in effect for six  
6 years. The first year shall be deemed to start on  
7 the first day of April after approval has been  
8 given.

8 MR. FREIDIN: Q. If we could then move,  
9 Mr. Bisschop, on the matter of bump-up, I have a couple  
10 of short questions for you, perhaps some by way of  
11 repetition.

12 But OFIA and Forests for Tomorrow asked  
13 what criteria would apply for granting a bump-up  
14 request. And could you respond, please?

15 MR. BISSCHOP: A. Again, you have heard  
16 in the evidence of Panel 15, Mr. Chairman, and Mr.  
17 Freidin reiterated that again, earlier I believe, our  
18 position is that the Ministry of Natural Resources is  
19 in no position to establish what are the criteria for  
20 granting a bump-up request, that is the discretion of  
21 the Minister of the Environment and we leave it to the  
22 Ministry to deal with that subject.

23 Q. Term and condition 25(c). Could you  
24 turn to that, please, it deals with bump-up.

25 That section indicates that the decision

1 of the Minister of the Environment on a bump-up request  
2 will normally be made within 45 days of the submission  
3 of the bump-up request.

4 And I understand, Mr. Bisschop, that the  
5 Ministry of the Environment has asked whether the  
6 Ministry would be willing to change that to 45 days  
7 from the date upon which the Ministry of the  
8 Environment receives the response from the Ministry of  
9 Natural Resources, which is contemplated by the first  
10 part of term and condition 25(c).

11 Am I right that that has been a request  
12 that has been made of the Ministry?

13 A. Yes, that's correct, and we would  
14 agree with that.

15 Q. And you are willing to make that  
16 change?

17 A. Yes, we would make that change to  
18 25(c) provided that there were a change as well to  
19 25(b) that indicated, in the last sentence of 25(b)  
20 where it says:

21 "The Ministry of Environment shall  
22 provide copies of the request and any  
23 related correspondence to MNR", we would  
24 seek to add the words of:

25 "...immediately upon receipt of such a

1 request", so that there is an immediate  
2 transfer of paper to allow the provisions of section  
3 (c) of condition 25 to happen in 45 days.

4 MR. FREIDIN: And, Mr. Chairman, I can  
5 advise that the Ministry of the Environment has agreed  
6 to a change in the wording with the import of those  
7 words.

8 MR. MARTEL: Read that again, please?

9 MR. FREIDIN: "Immediately upon receipt  
10 of such a request."

11 THE CHAIRMAN: So what is the change then  
12 to the end of (c)?

13 MR. FREIDIN: We haven't got the exact  
14 wording, but basically it will be that:

15 "The Ministry of the Environment --"  
16 pardon me:

17 "The decision will normally be made  
18 within 45 days..." going over to page 12:  
19 "...from the date upon which the Ministry  
20 of the Environment receives the response  
21 from the Ministry of Natural Resources  
22 referred to herein", I guess would be a  
23 wording which would capture the intent.

24 We might clean that up a little, but that  
25 is the idea, Mr. Chairman.

1 Q. The next question for you, Mr.  
2 Bisschop. OFAH statement of issues in relation to  
3 paragraph 12 of the executive summary asks -- and  
4 perhaps we could just go to that section so we know  
5 what we are talking about.

6 Paragraph 12 is found on page No. 14 of  
7 the statement of evidence and states:

8 "Timber management is very well suited to  
9 the class environmental assessment  
10 approach because it involves a common set  
11 of activities wherever it is undertaken  
12 and those activities have a generally  
13 predictable range of effects."

14 And OFAH's question is: What is meant by  
15 the phrase 'generally predictable range of effects'?

16 MR. BISSCHOP: A. Mr. Chairman, the same  
17 question was asked in an OFAH interrogatory which we  
18 filed in the package of interrogatories, Interrogatory  
19 No. 8, on page 2, in which we have described what we  
20 mean by generally predictable.

21 I think to really sum it up, we have  
22 indicated in the evidence of previous panels,  
23 particularly Panels 10 through 14, that in general we  
24 know the hypothesis of cause/effect and that is why we  
25 make the conclusion that for timber management we



1 generally have predictable effects, and I think the  
2 rest of the response to the interrogatory responds to  
3 the question.

4 Q. Now, in their statement of issues  
5 Nishnawbe-Aski asked a question in relation to  
6 paragraphs 12 to 15 of the statement of evidence, and  
7 the question was, and I'm quoting:

8 "MNR's timber management planning process  
9 does not provide for a common predictable  
10 planning process from the native  
11 community's perspective." That was their  
12 comment.

13 "There is no predictability of  
14 commonality across the area of the  
15 undertaking as to how native concerns  
16 will be addressed in the timber  
17 management planning process."

18 Could you comment on that statement made  
19 in the statement of issues?

20 A. Mr. Chairman, as we have indicated in  
21 the evidence of Panel 15, in essence I disagree with  
22 the statement that is made here because we have made  
23 the case that we do have a common planning process and  
24 it's predictable in terms of how it would be applied.

25 The approach is common. There is no

1 question that whatever resolution comes out of applying  
2 the approach in any particular situation will not be a  
3 consistent resolution across the area of the  
4 undertaking. And that I think makes good sense and  
5 it's part of our whole position, but to say that the  
6 approach is not common and predictable, I would  
7 disagree with.

8 If there is something in particular that  
9 we haven't addressed from the perspective of the NAN  
10 communities, then I would suggest we have yet to hear  
11 that.

12 Also, we have indicated that we have  
13 designed an approach that applies commonly and  
14 consistently to address the concerns of all  
15 stakeholders, all peoples involved and interested in  
16 timber management planning, and that that approach is a  
17 consistent approach across the province that addresses  
18 those concerns.

19 I think the discussion about 'common  
20 planning process' that appears in the statement of  
21 evidence - if I could have a moment - starting at the  
22 first full paragraph on page 117 through to the end of  
23 the second paragraph on page 119, elaborates much more  
24 comprehensively about the elements of the common  
25 process.

1 MR. FREIDIN: Those are my questions for  
2 Mr. Bisschop, Mr. Chairman. I think that concludes the  
3 examination-in-chief for Panel 17.

4 THE CHAIRMAN: Thank you. Ready for Mr.  
5 Edwards?

6 Do you want to take a short break, Mr.  
7 Edwards?

8 MR. EDWARDS: I'm prepared to go, Mr.  
9 Chairman. If you want to take a few minutes.

10 MR. BISSCHOP: Mr. Chairman, I would like  
11 a short break, please.

12 THE CHAIRMAN: Okay. Ten minutes.

13 MR. EDWARDS: That settles it.

14 ---Recess taken at 2:15 p.m.

15 ---On resuming at 2:30 p.m.

16 THE CHAIRMAN: Thank you. Be seated.  
17 Welcome, Mr. Edwards, it's been a while.

18 MR. EDWARDS: Thank you, Mr. Chairman.  
19 Mr. Chairman, I expect I'll be very brief, 15 minutes  
20 or less.

21 THE CHAIRMAN: You can present your  
22 cross-examination seated if you want.

23 MR. EDWARDS: That is a little difficulty  
24 for me, Mr. Chairman.

25 THE CHAIRMAN: That is why we are

1 suggesting it.

2 MR. EDWARDS: That would make it about  
3 five minutes. I do have my badge here, Mr. Chairman,  
4 which I brought from the local Department of Health  
5 this morning which -- that's three times I've been  
6 needled. Once in the arm and once elsewhere.

7 THE CHAIRMAN: Okay.

8 CROSS-EXAMINATION BY MR. EDWARDS:

9 Q. Members of the Panel, who is  
10 responsible for the statement in this panel of evidence  
11 saying that timber mangement is better for the natural  
12 environment than leaving the forests alone?

13 Who wishes to assume the responsibility  
14 for that statement?

15 DR. EULER: A. I'll be happy to attempt  
16 to reply to it.

17 MR. EDWARDS: Q. Are you the author of  
18 that part of the statement, Dr. Euler?

19 A. Could you tell me exactly where you  
20 are, where you are reading and then maybe we can  
21 know -- your question, you see, is a little confusing  
22 to the panel because we are not exactly sure what you  
23 are referring to.

24 Q. I'm referring to the ranking at page  
25 72 where timber mangement is ranked overall as first,



1 and particularly first with respect to the -- 71, with  
2 respect to the natural environment, and alternative A  
3 which is the 'do-nothing' or null alternative is ranked  
4 as No. 3. And there's some text explaining it on pages  
5 72 and 73.

6 A. I think that perhaps three or four of  
7 us would attempt to be helpful. We all had a hand in  
8 this and each of us contributed certain portions of it.  
9 I don't think there is one person who is completely  
10 responsible here.

11 Q. Well, you are responsible for part of  
12 it; are you?

13 A. Yes, I'm responsible for part of it.

14 Q. Mr. Bisschop, you are responsible for  
15 part of that analysis?

16 MR. BISSCHOP: A. No, sir, I'm not.

17 Q. Mr. Clark?

18 MR. CLARK: A. Yes, and I would add that  
19 I think Dr. Euler is correct in his characterization  
20 here. I think all of us had a hand in it and I think  
21 you really have to look at the individual analysis to  
22 understand precisely on what basis that kind of a  
23 statement or decision was made.

24 Q. I see. Mr. Duncanson, did you have a  
25 hand in this analysis?

1 MR. DUNCANSON: A. No, I didn't.

2 Q. Mr. Armson?

3 MR. ARMSON: A. Yes, I had, particularly  
4 in the supporting rank, yes.

5 Q. I see. And Dr. Allin?

6 DR. ALLIN: A. Yes, I did as well,  
7 specifically with respect to aquatic effects.

8 Q. Yes, thank you.

9 Now, if one turns to page 72, one is  
10 confronted with the ranking No. 1 for timber mangement  
11 which states as follows:

12 "Wildlife habitat would also receive  
13 significant levels of protection..."

14 It's the second sentence in that paragraph under rank  
15 No. 1:

16 "...significant levels of protection  
17 through application of various guidelines  
18 and the ability to direct the type,  
19 amount and geographic distribution of  
20 habitats to meet particular wildlife  
21 objectives during the implementation  
22 of timber management plans. The network  
23 of access roads associated with timber  
24 management would distribute hunting,  
25 fishing and trapping pressures on fish

1 and wildlife populations over relatively  
2 large areas."

3 Now, the corresponding part of rank No.  
4 3, which is the 'do-nothing alternative' seems to be  
5 the last three sentences on page 73 commencing with the  
6 words "in regards..."

7 "In regards to wildlife habitat, there  
8 would no ability to direct the type,  
9 amount or geographic distribution of  
10 habitats to meet particular wildlife  
11 objectives. Finally, the reduction in  
12 road accessible areas for fishermen,  
13 hunters and trappers would result in  
14 increased pressure on fish and wildlife  
15 population in the remaining accessible  
16 areas. For these reasons this  
17 alternative would rank third."

18 Now, does this analysis not turn on the  
19 impact on hunters and trappers and fishermen more than  
20 the impact on the natural environment?

21 Dr. Euler, do you see that as a problem  
22 with that analysis?

23 DR. EULER: A. Well, I don't see it as a  
24 problem. The impact on people is an extremely  
25 important part of the analysis.

1 Q. Yes, but they are not part of the  
2 natural environment; are they?

3 A. Well, we have considered that they  
4 were part of the natural environment and we led  
5 evidence about that this morning. This was our  
6 difficulty, you simply can't extract man and people  
7 from the natural environment, they are inextricably  
8 linked to it.

9 Q. I see. So the impact on hunters and  
10 fishermen and trappers would be an impact on the  
11 natural environment?

12 A. Yes.

13 Q. I see. The issue of the distribution  
14 of the impact; that is to say, when one is distributing  
15 the impact by reason of construction in road accessible  
16 areas, it's your evidence then that the amount of  
17 distribution of habitats providing for better trapping,  
18 fishing or hunting opportunities would be part of the  
19 natural environment -- a consideration of the natural  
20 environment?

21 A. Yes, because they all relate to the  
22 objectives that we are seeking from the forest.

23 Q. And you don't see that as an impact  
24 on the socio-economic environment?

25 A. Well, there are impacts on the



1 socio-economic environment as well, yes.

2 Q. Well, let's look at the evidence with  
3 respect to water crossing abandonment. It's your  
4 evidence that doing nothing --

5 A. Could you help us by telling us where  
6 you are, please?

7 Q. Again, at the bottom of page 72. If  
8 you start with the sentence:

9 "Increased sedimentation, nutrient inputs  
10 to water bodies and increased stream  
11 temperature over reasonably widespread  
12 areas would be the result."

13 That is with respect to wildfire. And  
14 the sentence commencing with the word "also":

15 "Also, in the process of reaching the  
16 natural state, significant sedimentation  
17 associated with deteriorating access  
18 roads would be expected."

19 Now, is it your evidence that the impact  
20 of water crossing abandonment would be greater than all  
21 of the construction of what would be required for  
22 timber management purposes in the future?

23 A. That would be Dr. Allin.

24 Q. Dr. Allin, is that your evidence on  
25 that point?

1 DR. ALLIN: A. Essentially, yes, but you  
2 have to look at all aspects of erosion and  
3 sedimentation in relation to those two alternatives,  
4 timber management and alternative A.

5 But, yes, we felt overall that there  
6 would be a greater impact on erosion and sedimentation  
7 from alternative A than there would be from timber  
8 management.

9 Q. Simply abandoning and doing nothing  
10 further would create a greater impact than all the road  
11 construction which is anticipated for how many years?

12 A. Indefinitely.

13 Q. Indefinitely. And do you personally  
14 believe that?

15 A. Yes, I do.

16 Q. Do the other members of the panel  
17 personally believe that?

18 DR. EULER: A. Well, that is in his area  
19 of expertise. I couldn't comment about whether I -- I  
20 just don't have the expertise to agree or disagree with  
21 that particular statement.

22 Q. Does anybody else care to agree or  
23 disagree?

24 (no response)

25 And, Dr. Allin, you are quite certain of

1       that point; are you?

2                   DR. ALLIN:  A.  Well, all of these  
3       matters are somewhat speculative in the sense that  
4       obviously no one has gone out and done a scientific  
5       study that would result in imperical data comparing  
6       road abandonment with road construction over an  
7       indefinite period.

8                   So there is -- it's really a matter of  
9       judgment based on experience and knowledge and what you  
10      predict would result if you were to terminate timber  
11      management and walk away from the road system.

12                  Q.  In the absence of imperical data,  
13      nevertheless, you are prepared to stand by that  
14      statement?

15                  A.  I believe that the impacts with  
16      respect to erosion and sedimentation as well as a  
17      number of other factors in relation to alternative A  
18      would be higher, yes.

19                  Q.  And I asked you earlier if you were  
20      certain of that and you qualified that, but are you --  
21      that is your best opinion?

22                  A.  Yes, it is.

23                  Q.  And is that opinion as reliable as  
24      all the other opinions that you have given under oath  
25      to this panel?

1 THE CHAIRMAN: Well, Mr. Edwards --

2 MR. EDWARDS: Is that not a fair  
3 question?

4 MR. FREIDIN: That is not a fair  
5 question.

6 THE CHAIRMAN: I'm not sure that we'll  
7 compel you to answer that one, Dr. Allin.

8 MR. EDWARDS: Q. Mr. Duncanson, you did  
9 the material on recycling. I would invite you to turn  
10 to page 54 of the witness statement. Do you have that,  
11 sir?

12 MR. DUNCANSON: A. I have it.

13 Q. All right. Alternative C deals with  
14 the issue of recycling, and I'm directing your  
15 attention to the bottom two bullets at the bottom of  
16 page 54:

17 "While incapable of supplying a major  
18 portion of the raw material requirements  
19 of Ontario Forest Products Industry,  
20 recycling of previously processed wood  
21 products provides a significant  
22 contribution of specific end products."

23 That was your statement?

24 A. That's correct.

25 Q. When did you write that, sir?



1 A. January, a year ago.  
2 Q. In 1989?  
3 A. Yes.  
4 Q. And you considered it to be reliable  
5 at that time?  
6 A. Yes.  
7 Q. And the next statement:  
8 "However, the relatively small quantities  
9 of waste paper available in northern  
10 Ontario communities, coupled with the  
11 high costs of collection and  
12 transportation do not make the use of  
13 waste paper by northern Ontario paper  
14 mills feasible."  
15 And when did you write that?  
16 A. January, 1989.  
17 Q. And you considered that to be  
18 reliable at that time?  
19 A. Yes.  
20 Q. All right. And that was your best  
21 prediction that you could make at that time?  
22 A. Yes.  
23 Q. And were all the other predictions  
24 that you've made in the course of your paper the best  
25 predictions that you could make at the time?

1                   A.   Quite a few of the statistics that  
2                   are included in that section were actual statistics.

3                   Q.   Yes, but the prediction that you made  
4                   was the best prediction you could make at that time;  
5                   wasn't it?

6                   A.   Which prediction are you referring to  
7                   specifically?

8                   Q.   Well, for example:  
9                   "The use of waste paper by northern  
10                  Ontario paper mills was not feasible."  
11                  That was your best prediction?

12                  A.   Yes.

13                  Q.   You were making your best efforts  
14                  then?

15                  A.   Yes.

16                  Q.   And when you wrote that, did you  
17                  regard that statement to be as reliable as all the  
18                  other statements in your witness statement?

19                  A.   Yes, I did.

20                  Q.   Sir, I'm going to produce and show to  
21                  you an article from the Thursday, December 21st, 1989  
22                  edition of the Thunder Bay Chronicle Journal with the  
23                  headline: Mills Converting to Recycled Paper, and I  
24                  will just invite you to take a look at that, please.

25                  THE CHAIRMAN: Exhibit 991.

1       ---EXHIBIT NO. 991: Newspaper article entitled:  
2                               Mills Converting to Recycled  
3                               Paper dated Thursday, December 21,  
                              1989.

4                               THE CHAIRMAN: Is it the person that  
5       submits the one-thousandth exhibit?

6                               MS. BLASTORAH: That's right, Mr.  
7       Chairman.

8                               MR. FREIDIN: It certainly is not the  
9       party whose case is being presented at the time.

10                              MS. BLASTORAH: It clearly was the person  
11       who submits it, Mr. Chairman.

12                              MR. EDWARDS: That was 991; was it,  
13       Mr. Chairman?

14                              THE CHAIRMAN: That's right.

15                              MR. FREIDIN: Notice the honesty that we  
16       used, Mr. Chairman, in not bumping up ours to 999  
17       before we finished our evidence-in-chief. I want that  
18       to go on record.

19                              MR. EDWARDS: Q. Mr. Duncanson, have you  
20       had the opportunity to look at that article, sir?

21                              MR. DUNCANSON: A. I'm halfway through  
22       it. Okay, I've finished.

23                              Q. Sir, I'm asking you to take a look at  
24       the paragraph in the right-hand column commencing with:  
25       "The total newsprint production..." Do you have that

1 paragraph?

2 A. Yes, I do.

3 Q. Just reading it briefly into the  
4 record:

5 "The total newsprint production of  
6 the Thunder Bay mill in 1991 will be  
7 475,000 metric tonnes and about 240,000  
8 will be recycled paper..." Dupruis said:.  
9 "Recycled contents will run as high as 70  
10 percent but CP Forest is considering a  
11 standard of 40 per cent, the content  
12 required in California."

13 Now, sir, you will agree that your  
14 statement that it was not feasible for mills in  
15 northern Ontario to use recycled paper, would you agree  
16 that that statement is no longer true?

17 A. By the terminology 'feasible', I'm  
18 saying economically feasible.

19 Q. Well, you're not suggesting that CP  
20 Forest Products is out on a lark here. Would they be  
21 investing \$75-million if they thought it was not  
22 feasible?

23 A. I think the article has some errors  
24 in it and was admitted to by CP Forest in a couple of  
25 other follow-up articles.



1                   It indicates that their number one reason  
2                   of doing this was to permit them to market newsprint  
3                   into states that had mandatory recycle content, that  
4                   was their number one rationale for doing it.

5                   Q.   Right.   And do you assume that they  
6                   took feasibility -- economic feasibility into that  
7                   calculation, or did they just do it frivolously?

8                   A.   No, they did an economic feasibility.

9                   Q.   I see.   And they propose it appears  
10                  to use paper primarily from American curbside selection  
11                  programs in the areas where it ships its newsprint, New  
12                  England and the U.S. Midwest.   Is that statement true,  
13                  to your knowledge?

14                  A.   Well, the Thunder Bay mill would be  
15                  shipping to the Midwest.   There are two mills in  
16                  reference here.   The Gatineau, Quebec mill primarily  
17                  ships into the New England market.

18                  Q.   Right.   So the hundred million  
19                  dollars that is being spent on Gatineau would be  
20                  recycling newsprint from the New England market, and  
21                  the \$75-million spent in Thunder Bay would be recycling  
22                  from the U.S. Midwest?

23                  A.   No.   The Gatineau waste paper  
24                  collection will be primarily Montreal and eastern  
25                  Canada with some component coming from the States.

1                   My estimation of where they will supply  
2           the waste paper for that Gatineau mill will probably be  
3           more likely about 60 per cent Canadian, primarily the  
4           Montreal area, and 40 per cent from other  
5           jurisdictions, some from Ontario.

6                   Q.   Sir, do you see recycling and the  
7           impetus to recycle newsprint as a growing phenomenon?

8                   A.   Sorry, can you rephrase that?

9                   Q.   Do you see recycling of newsprint and  
10          the impetus to do that, do you see that as a growing  
11          phenomenon?

12                  A.   Yes, I think it's evidenced.

13                  Q.   All right. And there's a lot of --  
14          there are a number of jurisdictions which have passed  
15          or propose to pass legislation requiring a recycled  
16          component?

17                  A.   There are three states in the United  
18          States that have passed a recycle content law. There  
19          are a number of other --

20                  Q.   Which states are those, please?

21                  A.   California - well, I'll do it in  
22          order that they came - Florida, Connecticut and  
23          California, and they all have different laws.  
24          California is the only one that specifies an actual  
25          percentage -- California and Connecticut are the only

1 two that have specific recycle content.

2 Q. Is the article correct when it says  
3 12 to 15 other states have tabled similar legislation?

4 A. There are at least nine that I know  
5 of. The three that I mentioned yesterday, the most  
6 recent ones, Wisconsin, New York and Pennsylvania, have  
7 since discarded their legislation to pass mandatory  
8 recycling and have reached agreements with the major  
9 end users in those states, the publishers, and have  
10 agreed upon voluntary timetables, best efforts.

11 Q. What about the 12 to 15 other states  
12 that have tabled similar legislation; are you aware of  
13 them?

14 A. I do not believe that the total  
15 number is 12 to 15 any more. I think that my guess  
16 right now, there are probably about eight that have  
17 legislation, and I've done quite an analysis of quite a  
18 few of those states, and some of the legislation does  
19 not pertain solely to waste paper, it's -- like the  
20 state legislation in New Jersey, for instance, is all  
21 recyclable materials; cans, bottles, but that  
22 legislation is still pending.

23 Q. What is your evidence about the  
24 number of states that have legislation pending, sir; do  
25 you know anything about that?

1                   A. I don't have it available right now  
2 but -- because I haven't done a survey of the various  
3 states, various jurisdictions.

4                   From my list, I believe that there were  
5 10 of them prior to Christmas, last week. As I  
6 indicated yesterday in my presentation, three of them,  
7 Pennsylvania, New York and Wisconsin, have decided to  
8 go the voluntary route.

9                   So in my estimation there's probably  
10 seven states that have some recycle legislation, but  
11 the timetables -- and I haven't committed all of them  
12 to memory.

13                  Q. Thank you. I'll move on to another  
14 area, please. Is there a particular author of the  
15 portion of the witness statement which sets out the  
16 'alternatives to' the undertaking, a particular author  
17 or is this a team effort?

18                  MR. BISSCHOP: A. There is no one  
19 particular author, it's a group effort, but I spoke to  
20 the 'alternatives to' yesterday when we introduced them  
21 and the assumptions that accompanied them.

22                  Q. Mr. Biscchop, Section 5(3) of the Act  
23 says that:

24                   "The environmental assessment submitted  
25 to the Minister shall consist of a



1 description of the purpose of the  
2 undertaking, a description of any  
3 statement of the rationale for the  
4 undertaking, the alternative methods of  
5 carrying out the undertaking and the  
6 alternatives to the undertaking."

7 You're, I'm sure, very familiar with that  
8 section?

9 A. Yes, sir.

10 Q. And when you were preparing this  
11 material dealing with the alternative methods and the  
12 'alternatives to' --

13 MS. BLASTORAH: Mr. Chairman, I will just  
14 rise on that point. This material does not deal with  
15 the alternative methods. This materially -- if Mr.  
16 Edwards is referring to the Panel 17 material, that  
17 only deals with alternatives to the undertaking, not  
18 alternative methods, that was dealt with in earlier  
19 panels. So I just rise on that point of clarification.

20 MR. EDWARDS: Well, with respect to the  
21 alternative methods, it's set out at Page 6 of the  
22 Class Environmental Assessment.

23 Q. Were you responsible for any part of  
24 that, Mr. Bisschop?

25 MR. BISSCHOP: A. I'm responsible for

1 writing much of the Environmental Assessment Document,  
2 yes.

3 I would say that the correct reference --  
4 I think the Page 6 that you are referring to is from  
5 the summary at the beginning of the document. The  
6 actual details related to alternative methods begin at  
7 page 31.

8 Q. Right. I'm referring to the summary.  
9 Did you author the summary or were you involved in its  
10 preparation?

11 A. I was involved in its preparation.

12 Q. Thank you.

13 MR. EDWARDS: If I can just have a  
14 moment, Mr. Chairman.

15 Q. In response to Ontario Federation of  
16 Anglers & Hunters, Question No. 1 in the  
17 interrogatories, the question was put as follows:

18 "Are all alternatives addressed in this  
19 witness statement? If not, please  
20 indicate those alternatives not  
21 considered?"

22 The answer was:

23 "All possible alternatives to achieve the  
24 purpose of providing a continuous and  
25 predictable supply of wood for Ontario

1 Forest Products Industries are not  
2 addressed in this witness statement. The  
3 number of potential alternatives to  
4 achieve this purpose is almost infinite.  
5 To examine all alternatives would be  
6 unmanageable and unreasonable. It is  
7 MNR's view that the alternatives  
8 addressed represent a reasonable range  
9 to allow conclusions in relation to the  
10 undertaking of timber management."

11 Now, in whittling down from the almost  
12 infinite number of potential alternatives, Mr.  
13 Bisschop, did you take it to be your duty to consider  
14 reasonable alternatives only?

15 A. That is certainly, I would suggest,  
16 probably the most important criterion, yes, they should  
17 be reasonable.

18 Q. And you took that duty seriously?

19 A. Yes.

20 Q. And --

21 A. Recognizing that common practice in  
22 environmental assessments is to address the alternative  
23 to of doing nothing, in a sense to act as some kind of  
24 basis for comparing alternatives.

25 Q. Did you consider it your duty as well

1 to look at reasonable alternative methods of carrying  
2 on the undertaking?

3 MS. BLASTORAH: Mr. Chairman, again, I  
4 must rise. As I have already indicated, this panel is  
5 not here to deal with alternative methods, and we've  
6 already dealt with that in a number of other panels  
7 starting with Panel 7 and I submit ending with Panel  
8 16, and I don't know why we are talking about  
9 alternative methods now.

10 MR. EDWARDS: Well, I certainly have  
11 never had the opportunity to put that question to a  
12 witness, and the man is here. I don't see that it's --  
13 it's certainly within the context of what we are  
14 talking about today.

15 THE CHAIRMAN: Okay. Well, I think, Ms.  
16 Blastorah, we could probably get a very quick answer  
17 out of Mr. Bisschop.

18 From your understanding of the Class  
19 Environmental Assessment as put forward by the  
20 Ministry, Mr. Bisschop, were a reasonable range of  
21 alternative methods of carrying out the undertaking  
22 addressed as well?

23 MR. BISSCHOP: Yes. What I would add to  
24 that, Mr. Chairman, is that it's important to  
25 understand that one identifies alternative methods for



1 carrying out the undertaking.

2 We have defined the undertaking, we then  
3 address alternative methods of carrying out that  
4 undertaking called timber management and we have  
5 addressed that through the subjects of alternative  
6 methods of carrying out the various activities of  
7 harvest, access, renewal and maintenance.

8 MR. EDWARDS: Q. So in your  
9 consideration of alternative methods or 'alternatives  
10 to', you did not see it as even reasonable to consider  
11 items such as habitat supply analysis, natural  
12 phenomena, inventory based on boundaries of a forest  
13 management unit rather than wildlife management units,  
14 or a program for integrating non-timber values in a  
15 quantitative model?

16 You did not see those as reasonable  
17 things to consider?

18 MR. BISSCHOP: A. Mr. Edwards, I would  
19 take you back to the purpose of the undertaking which I  
20 believe is the paramount statement, if you will, I  
21 guess, in terms of addressing the subjects of  
22 'alternatives to' and alternative methods.

23 And on the figure behind me we have put  
24 the purpose at the top of that figure to make it  
25 very -- to keep it in peoples' minds, if you will, of

1       what it is we are trying to address.

2               Those various items that you have put to  
3       me as suggestions on how to address the subject of  
4       'alternatives to', I would suggest, would not fall  
5       within the realm of alternatives to achieve that  
6       purpose.

7               THE CHAIRMAN: Mr. Edwards, I think you  
8       have to realize, as I'm probably sure you do, that an  
9       environmental assessment is proponent generated.

10              The proponent lists or sets out what they  
11      think should be done to fulfill the requirements of the  
12      Act; other parties may have different views and other  
13      parties may, in their own case, bring forth additional  
14      alternatives that may not have been considered for one  
15      reason or another by the proponent, ultimately it will  
16      be up to the Board to decide whether or not the EA  
17      meets the criteria and the statutory requirements of  
18      the legislation.

19              MR. EDWARDS: Thanks, Mr. Chairman. I'm  
20      almost complete, I think.

21              Q. Mr. Bisschop, when you were  
22      considering the alternatives which you came up with --

23              MS. BLASTORAH: Mr. Chairman, just a  
24      point of clarification. Are we talking about  
25      alternative methods or 'alternatives to' when Mr.

1 Edwards says 'alternatives'?

2 MR. EDWARDS: I will start with  
3 alternatives - 'alternatives to'. I am going to put  
4 the question with alternative methods as well.

5 Q. When you were considering those, sir,  
6 you gave the best list you could come up with?

7 MR. BISSCHOP: A. Referring back to our  
8 evidence yesterday in which we had a discussion with  
9 the Chairman on this subject, we looked at the  
10 undertaking as an alternative to achieve the purpose  
11 and, you are familiar, it's called timber management.

12 We looked at the 'do-nothing' alternative  
13 as a normal requirement of environmental assessments,  
14 and through our alternatives B and C we looked at, in  
15 effect, two alternatives that involve no management of  
16 the timber resource, if you will, in the sense that we  
17 simply harvest but we don't manage the resource to  
18 continue to perpetuate the forest in the way that man  
19 would do that to achieve the purpose.

20 So we looked at what we feel is a  
21 reasonable range of alternatives to address the  
22 purpose.

23 Q. And this was the best you could come  
24 up with?

25 A. Yes, sir.

1 Q. Your answer to that question is as  
2 honest as all the other answers you've given under oath  
3 to this hearing?

4 MR. FREIDIN: The same objection, Mr.  
5 Chairman.

6 THE CHAIRMAN: Well, I don't think we've  
7 had anything before us necessarily, Mr. Edwards, to  
8 question the integrity of any of the witnesses.

9 MR. EDWARDS: I'm not questioning the  
10 integrity of the witnesses, I'm just questioning the  
11 compliance with a duty under the Environmental  
12 Assessment Act, which is what I thought we were here to  
13 look at.

14 THE CHAIRMAN: Well, you can leave it to  
15 your case to put forward where the Act hasn't been  
16 complied with; we'll decide whether we agree with you.

17 MR. EDWARDS: Thank you, sir. Those are  
18 my questions.

19 THE CHAIRMAN: Thank you.

20 Very well, ladies and gentlemen, we'll  
21 adjourn until Tuesday morning at 8:30.

22 Thank you.

23 ---Whereupon the hearing adjourned at 3:00 p.m., to be  
24 reconvened on Tuesday, January 16th, 1990,  
commencing at 8:30 a.m.

25 [copyright, 1985]











